

# EXHIBIT 23

## Contract Summary Sheet

**Contract (PO) Number:** 18031

**Specification Number:** 65611

**Name of Contractor:** REDFLEX TRAFFIC SYSTEMS INC.

**City Department:** OFFICE OF EMERGENCY COMMUNICATION

**Title of Contract:** RED LIGHT CAMERA TRAFFIC SYSTEM EQUIPMENT  
MAINTENANCE, SUPPORT AND REPAIRS (INCLUDING  
REPLACEMENT)

**Term of Contract: Start Date:** 2/1/2008

**End Date:** 1/31/2013

**Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):**  
\$32,109,090.00

**Brief Description of Work:** RED LIGHT CAMERA TRAFFIC SYSTEM EQUIPMENT  
MAINTENANCE, SUPPORT AND REPAIRS (INCLUDING  
REPLACEMENT)

**Procurement Services Contract Area:** PRO SERV CONSULTING \$250,000orABOVE

*Please refer to the DPS website for Contact information under "Doing Business With The City".*

**Vendor Number:** 50065408

**Submission Date:**

OCT 23 2008

Contract (PO) No. 18031  
Specification No. 65611  
Vendor No. 50065408A

**AGREEMENT**

**BETWEEN**

**THE CITY OF CHICAGO  
OFFICE OF EMERGENCY MANAGEMENT AND COMMUNICATIONS**

**AND**

**REDFLEX TRAFFIC SYSTEMS, INC.**



**REDFLEX TRAFFIC SYSTEM EQUIPMENT  
MAINTENANCE & SUPPORT SERVICES**

**RICHARD M. DALEY  
MAYOR**

## PROFESSIONAL SERVICES AGREEMENT

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## **AGREEMENT**

This Agreement is entered into as of the **1<sup>st</sup> day of February, 2008** ("Effective Date") by and between **Redflex Traffic Systems, Inc.**, a Delaware corporation ("Contractor"), and the **City of Chicago**, ("City") a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through its **Office of Emergency Management and Communications** ("Department"), at Chicago, Illinois. The City and Contractor agree as follows:

## **BACKGROUND INFORMATION**

The City has implemented red-light cameras to enforce traffic laws and improve public safety for motorists and pedestrians through a significant decrease in vehicles running red lights and changing negative driving behavior. The cameras have a proven track record of reducing red-light running and the accidents and injuries it causes.

The City has the largest and most sophisticated red light enforcement program in the United States. As of December 15, 2007, the City installed 136 Systems.

The City requires equipment maintenance and support services of the City-Wide Digital Automated Red Light Enforcement Program operating twenty-four hours a day, seven days a week, three hundred sixty-five days a year (24/7/365).

The Contractor represents and warrants that it is highly qualified and competent to perform the Services and has the necessary expertise and knowledge to complete the Services assigned to it in accordance with this Agreement.

The City has negotiated with Contractor for the maintenance and support services of a digital automated red light enforcement system for the City. Contractor represents that it has the professional experience and expertise to provide the Services and further warrants that it is ready, willing and able to perform in accordance with the terms and conditions as set forth in this Agreement to the full satisfaction of the City.

The Background Information set forth above is incorporated by reference as if fully set forth here.

**NOW THEREFORE**, the City and Contractor agree as follows:

## **TERMS AND CONDITIONS**

### **ARTICLE 1. DEFINITIONS**

## 1.1 Definitions

The following words and phrases have the following meanings for purposes of this Agreement:

**“Additional Services”** means those services which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 2.1, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services requested by the Department require the approval of the City in a written amendment under Section 9.3 of this Agreement before Contractor is obligated to perform those Additional Services and before the City becomes obligated to pay for those Additional Services.

**“Agreement”** means this Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

**“Chief Procurement Officer”** means the Chief Procurement Officer of the City and any representative duly authorized in writing to act on his behalf.

**“Contractor”** means Redflex Traffic Systems, Inc.

**“Data”** means all file transfer information such as, but not limited to, license number, type of plate, date, time, video support, and reports.

**“DARLEP”** means the City's Digital Automated Red Light Enforcement Program, as authorized by Chapter 9-102 of the Municipal Code of the City of Chicago.

**“Department”** means the Office of Emergency Management and Communications.

**“Digital Image Verification”** means Contractor's review of a digital image produced by a System to determine whether there is a violation of Section 9-102-020 of the Municipal Code of the City of Chicago (e.g., determine whether the vehicle was either an authorized emergency vehicle or a vehicle lawfully participating in a funeral procession).

**“Enforceable Image”** means that the photographic image (produced by a System and submitted by Contractor to the City) of a vehicle and the vehicle registration plate of that vehicle, when the vehicle (other than an authorized emergency vehicle or any vehicle lawfully participating in a funeral procession) is used in violation of Sections 9-8-020(c) or Section 9-16-030(c) of Municipal Code of the City of Chicago, is of sufficient clarity and contains such information as is necessary (including clearly depicting the red traffic light) for the City to issue a citation for a violation of Section 9-102-020 of Municipal Code of the City of Chicago, as determined by the City.

**“Equipment”** means all non-Software items (including poles, cabinets, hardware, In-



Ground Loops, communications equipment, etc.) that comprise a System, including the items set forth in Exhibit 1-A.

**“Executive Director”** means the chief executive of OEMC and any representative authorized in writing to act on his/her behalf.

**“In-Ground Loop”** means the System sensors that are installed under the street pavement, which activates each System.

**“Intersection Approach”** means a conduit of travel with up to four (4) contiguous lanes from the curb (i.e., northbound, southbound, eastbound, or westbound) on which at least one (1) digital, rear shot multiple image color camera has been installed by Redflex for the purposes of facilitating Redlight Photo Enforcement by the City.

**“Intersection Housing”** means the cabinet in which a System's digital cameras are housed.

**“Knockdowns”** means physical act of vandalism, accidental knockdown or physical removal of system due to street resurfacing.

**“OEMC”** means the Office of Emergency Management and Communications.

**“Prosecution Rate”** means the percentage of Enforceable Images.

**“Redflex Program”** means Contractor's *Redflex* digital automated red light enforcement program, including all related Equipment, Software, maintenance, repair, support, training, and other work and services provided by Contractor under this Agreement.

**“Red Light Violation”** refers to the operation of a vehicle in violation of Sections 9-8-020(c) or Section 9-16-030(c) of Municipal Code of the City of Chicago.

**“Services”** means, collectively, the services, duties and responsibilities described in Article 2 and Exhibit 1 of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

**“Software”** means, collectively, the programs, subroutines, and utilities, together with corresponding documentation and operation procedures, which are implemented on each System. Software encompasses all contractor licensed software and all third party system which are implemented on each System.

**“Subcontractor”** means any person or entity with whom Contractor contracts to provide any part of the Services, including subcontractors and subconsultants of any tier, suppliers and materials providers, whether or not in privity with Contractor.

**“System”** means the traffic signal monitoring Equipment and Software installed at an

Intersection Approach as part of the Redflex Program.

## **1.2 Interpretation**

(a) The term “**include**” (in all its forms) means “include, without limitation” unless the context clearly states otherwise.

(b) All references in this Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.

(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

## **1.3 Incorporation of Exhibits**

The following attached Exhibits are made a part of this Agreement:

Exhibit 1	Scope of Work
Exhibit 1A	Equipment
Exhibit 2	Schedule of Compensation
Exhibit 3	Special Conditions Regarding MBE/WBE Commitment
Exhibit 4	Economic Disclosure Statement and Affidavit
Exhibit 5	Insurance Requirements and Evidence of Insurance
Exhibit 6	Contractual Requirements Related to HIPAA
Exhibit 7	List of Key Personnel
Exhibit 8	Additional Provisions Relating to Public Works and Construction Projects.

## **ARTICLE 2. DUTIES AND RESPONSIBILITIES OF CONTRACTOR**

### **2.1 Scope of Services**

This description of Services is intended to be general in nature and is neither a complete description of Contractor's Services nor a limitation on the Services that Contractor is to provide under this Agreement. Contractor must provide the Services in accordance with the standards of performance set forth in Section 2.3. The Services that Contractor must provide are described in Exhibit 1, Scope of Work.

The maintenance program includes camera system repairs, software development and updates, network administration and help desk support. Installed systems must maintain a minimum 85% Prosecution Rate.

The following services include the following maintenance and support service categories such as preventative and general maintenance and emergency response. These maintenance and support service responsibilities include, but are not limited to, the following:

- Dedicated site support through preventative and on-site maintenance programs designed to identify potential problems expeditiously before they affect system operations as well as the repair of identified discrepancies while minimizing downtime to operational systems.
- Monitor/coordinate Street Maintenance using sub-contractors and Chicago Department of Transportation.
- Run/Maintenance/Monitor systems at peak efficiency with little or no input from the customer; the operation of the system should be transparent to the customer while ensuring their inputs and desires are being met.
- Redflex applications are maintained and upgraded with software and hardware support for the duration of the contract through standard maintenance practices.
- Data extracts from legacy systems will be transferred as needed to ensure vital information is maintained for optimal performance.
- Remote and on-site troubleshooting and debugging for production issues are available daily to ensure the highest quality images are produced
- Validate quality of plan/output from the implemented solution; system performance will be measured against predicted production to ensure the solution effectively produces desired results.
- On-site assistance for planners and end user training.
- Interface with Redflex support and development for product enhancements and customer specified modifications.
- Upgrade and document support.
- Hardware and system upgrade/changes support.
- Integration workflows support.
- On-site customizations.
- Digital image verification of all red light violations for processing of Enforceable Images.



- Storage of all red light violations for 2 years.
- Maintenance and hosting the secure website for viewing of red light violations.

## **2.2 Deliverables**

In carrying out its Services, Contractor must prepare or provide to the City various Deliverables. "**Deliverables**" include work product, such as written reviews, recommendations, reports and analyses, produced by Contractor for the City.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Contractor has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Contractor of its failure. If Contractor does not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement under Section 8.1.

Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Contractor of its obligations under this Agreement.

## **2.3 Standard of Performance**

Contractor must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a contractor performing services of a scope and purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Contractor acknowledges that it is entrusted with or has access to valuable and confidential information and records of the City and with respect to that information, agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or Deliverables or payment for any of the Services by the City does not relieve Contractor of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Contractor under this Agreement, at law or in equity.

Contractor must be appropriately licensed to perform the Services, if required by law, and must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed as may be required by law. Contractor must provide copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor or its Subcontractors or others on its



behalf. All Deliverables must be prepared in a form and content satisfactory to the Department and delivered in a timely manner consistent with the requirements of this Agreement.

If Contractor fails to comply with the foregoing standards, Contractor must, at the City's option, perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure, unless the reason is failure to have and maintain required licensure. See subsection 8.1 (b)(ii) regarding failure to comply with licensure requirements.

## **2.4 Personnel**

### **(a) Adequate Staffing**

Contractor must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. Contractor must include among its staff the Key Personnel and positions as identified below. The level of staffing may be revised from time to time by notice in writing from Contractor to the City and with prior written consent of the City.

### **(b) Key Personnel**

Contractor must not reassign or replace Key Personnel without the written consent of the City. "**Key Personnel**" means those job titles and the persons assigned to those positions in accordance with the provisions of this Section 2.4(b). The Department may at any time in writing notify Contractor that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Contractor must immediately suspend the key person or persons from performing Services under this Agreement and must replace him or them in accordance with the terms of this Agreement. Key Personnel, if any, are identified in Exhibit 7.

### **(c) Salaries and Wages**

Contractor and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement unconditionally and at least once a month without deduction or rebate on any account, except only for those payroll deductions that are mandatory by law or are permitted under applicable law and regulations. If in the performance of this Agreement Contractor underpays any such salaries or wages, the Comptroller for the City may withhold, out of payments due to Contractor, an amount sufficient to pay to employees underpaid the difference between the salaries or wages required to be paid under this Agreement and the salaries or wages actually paid these employees for the total number of hours worked. The amounts withheld may be disbursed by the Comptroller for and on account of Contractor to the respective employees to whom they are due. The parties acknowledge that this Section 2.4(c) is solely for the benefit of the City and that it does not grant any third party beneficiary rights.

## **2.5 Minority and Women's Business Enterprises Commitment**

In the performance of this Agreement, including the procurement and lease of materials or equipment, Contractor must abide by the minority and women's business enterprise commitment requirements of the Municipal Code of Chicago ("**Municipal Code**"), §§ 2-92-420 *et seq.* (1990), except to the extent waived by the Chief Procurement Officer and the Special Conditions Regarding MBE/WBE Commitment set forth in Exhibit 3. Contractor's completed Schedules C-1 and D-1 in Exhibit 3, evidencing its compliance with this requirement, are a part of this Agreement, upon acceptance by the Chief Procurement Officer. Contractor must utilize minority and women's business enterprises at the greater of the amounts listed in those Schedules C-1 and D-1 or the percentages listed in them as applied to all payments received from the City.

## **2.6 Insurance**

Contractor must provide and maintain at Contractor's own expense, during the term of this Agreement and any time period following expiration if Contractor is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverages and requirements specified in Exhibit 5 of this Agreement, insuring all operations related to this Agreement.

## **2.7 Indemnification**

(a) Contractor must defend, indemnify, and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses, including those related to:

- (i) injury, death or damage of or to any person or property;
- (ii) any infringement or violation of any property right (including any patent, trademark or copyright);
- (iii) Contractor's failure to perform or cause to be performed Contractor's promises and obligations as and when required under this Agreement, including Contractor's failure to perform its obligations to any Subcontractor;
- (iv) the City's exercise of its rights and remedies under Section 8.2 of this Agreement; and
- (v) injuries to or death of any employee of Contractor or any Subcontractor under any workers compensation statute.

(b) "**Losses**" means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits,

proceedings, judgments or settlements, any or all of which in any way arise out of or relate to Contractor's breach of this Agreement or to Contractor's negligent or otherwise wrongful acts or omissions or those of its officers, agents, employees, Contractors, Subcontractors or licensees.

(c) At the City Corporation Counsel's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Contractor of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

(d) To the extent permissible by law, Contractor waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any Losses, including any claim by any employee of Contractor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during Contractor's performance of Services beyond the term. Contractor acknowledges that the requirements set forth in this section to defend, indemnify, and hold harmless the City are apart from and not limited by the Contractor's duties under this Agreement, including the insurance requirements in Exhibit 5 of this Agreement.

## **2.8 Ownership of Documents**

All Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to Contractor under this Agreement are property of the City, including, as further described in Section 2.9 below, all copyrights inherent in them or their preparation. During performance of its Services, Contractor is responsible for any loss or damage to the Deliverables, data, findings or information while in Contractor's or any Subcontractor's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at the expense of Contractor. If not restorable, Contractor must bear the cost of replacement and of any loss suffered by the City on account of the destruction, as provided in Section 2.7.

## **2.9 Copyright Ownership**

Contractor and the City intend that, to the extent permitted by law, the Deliverables to be produced by Contractor at the City's instance and expense under this Agreement are conclusively deemed "**works made for hire**" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. §101 *et seq.*, and that the City will be the sole copyright owner of the Deliverables and of all aspects, elements and components of them in which copyright can



subsist, and of all rights to apply for copyright registration or prosecute any claim of infringement.

To the extent that any Deliverable does not qualify as a "work made for hire," Contractor hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the City, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the City under this Agreement, and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Contractor will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the City may reasonably request in order to assist the City in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the City. Contractor warrants to the City, its successors and assigns, that on the date of transfer Contractor is the lawful owner of good and marketable title in and to the copyrights for the Deliverables and has the legal rights to fully assign them. Contractor further warrants that it has not assigned and will not assign any copyrights and that it has not granted and will not grant any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables. Contractor warrants that the Deliverables are complete, entire and comprehensive, and that the Deliverables constitute a work of original authorship.

## **2.10 Records and Audits**

### **(a) Records**

(i) Contractor must deliver or cause to be delivered to the City all documents, including all Deliverables prepared for the City under the terms of this Agreement, promptly in accordance with the time limits prescribed in this Agreement, and if no time limit is specified, then upon reasonable demand for them or upon termination or completion of the Services under this Agreement. If Contractor fails to make such delivery upon demand, then Contractor must pay to the City any damages the City may sustain by reason of Contractor's failure.

(ii) Contractor must maintain any such records including Deliverables not delivered to the City or demanded by the City for a period of 5 years after the final payment made in connection with this Agreement. Contractor must not dispose of such documents following the expiration of this period without notification of and written approval from the City in accordance with Article 10.

### **(b) Audits**

(i) Contractor and any of Contractor's Subcontractors must furnish the Department with all information that may be requested pertaining to the performance and cost of the Services. Contractor must maintain records showing actual time devoted and costs incurred. Contractor must keep books, documents, papers, records and accounts in

connection with the Services open to audit, inspection, copying, abstracting and transcription and must make these records available to the City and any other interested governmental agency, at reasonable times during the performance of its Services.

(ii) To the extent that Contractor conducts any business operations separate and apart from the Services required under this Agreement using, for example, personnel, equipment, supplies or facilities also used in connection with this Agreement, then Contractor must maintain and make similarly available to the City detailed records supporting Contractor's allocation to this Agreement of the costs and expenses attributable to any such shared usages.

(iii) Contractor must maintain its books, records, documents and other evidence and adopt accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.

(iv) No provision in this Agreement granting the City a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents which the City would have had in the absence of such provisions.

(v) The City may in its sole discretion audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods, work, or Services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period." If, as a result of any such audit, it is determined that Contractor or any of its Subcontractors has overcharged the City in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and also some or all of the cost of the audit, as follows:

- A. If the audit has revealed overcharges to the City representing less than 5% of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then the Contractor must reimburse the City for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the City conducts;
- B. If, however, the audit has revealed overcharges to the City representing 5% or more of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then Contractor must reimburse the City for the full cost of the audit and of each subsequent audit.

Failure of Contractor to reimburse the City in accordance with subsection A or B above is an event of default under Section 8.1 of this Agreement, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

## **2.11 Confidentiality**

(a) All Deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Contractor under this Agreement are property of the City and are confidential, except as specifically authorized in this Agreement or as may be required by law. Contractor must not allow the Deliverables to be made available to any other individual or organization without the prior written consent of the City. Further, all documents and other information provided to Contractor by the City are confidential and must not be made available to any other individual or organization without the prior written consent of the City. Contractor must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by the confidentiality provisions in this Agreement.

(b) Contractor must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the project to which the Services pertain without the prior written consent of the Commissioner.

(c) If Contractor is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data or documents which may be in Contractor's possession by reason of this Agreement, Contractor must immediately give notice to the Executive Director and the Corporation Counsel for the City with the understanding that the City will have the opportunity to contest such process by any means available to it before the records, data or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold the delivery beyond the time ordered by a court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

(d) HIPAA and AIDS Confidentiality Act. To the extent not defined here the capitalized terms below and in Exhibit 6 will have the same meaning as set forth in the Health Insurance Portability and Accountability Act (Act). See 45 CFR parts 160, 162 and 164. Contractor and all its Subcontractors must comply with the Act and all rules and regulations applicable to it including the Privacy Rule, which sets forth the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164 subparts A and E; the Standards for Electronic Transactions, which are located at 45 CFR parts 160 and 162 and the Security Standards, which are located at 45 CFR parts 160, 162 and 164. Contractor must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16) and the rules and regulations of the Illinois Department of Public Health promulgated under it. If Contractor fails to comply with the applicable provisions under the ACT or the Illinois AIDS Confidentiality Act, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided.

Additionally, if Contractor is a Business Associate it must comply with all requirements



of the Act applicable to Business Associates including the provisions contained in Exhibit 6.

## **2.12 Assignments and Subcontracts**

(a) Contractor must not assign, delegate or otherwise transfer all or any part of its rights or obligations under this Agreement: (i) unless otherwise provided for elsewhere in this Agreement; or (ii) without the express written consent of the Chief Procurement Officer and the Department. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the Chief Procurement Officer, including approvals for the use of any Subcontractors, operate to relieve Contractor of any of its obligations or liabilities under this Agreement.

(b) All Subcontractors are subject to the prior approval of the Chief Procurement Officer. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this Agreement by Contractor personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this Agreement under no circumstances operates to relieve Contractor of any of its obligations or liabilities under this Agreement.

(c) Contractor, upon entering into any agreement with a Subcontractor, must furnish upon request of the Chief Procurement Officer or the Department a copy of its agreement. Contractor must ensure that all subcontracts contain provisions that require the Services be performed in strict accordance with the requirements of this Agreement, provide that the Subcontractors are subject to all the terms of this Agreement and are subject to the approval of the Department and the Chief Procurement Officer. If the agreements do not prejudice any of the City's rights under this Agreement, such agreements may contain different provisions than are provided in this Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) Contractor must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the Chief Procurement Officer. The attempted transfer or assignment of any funds, either in whole or in part, or any interest in them, which are due or to become due to Contractor under this Agreement, without such prior written approval, has no effect upon the City.

(e) Under § 2-92-245 of the Municipal Code, the Chief Procurement Officer may make direct payments to Subcontractors for Services performed under this Agreement. Any such payment has the same effect as if the City had paid Contractor that amount directly. Such payment by the City to Contractor's Subcontractor under no circumstances operates to relieve Contractor of any of its obligations or liabilities under this Agreement. This section is solely for the benefit of the City and does not grant any third party beneficiary rights.

(f) The City reserves the right to assign or otherwise transfer all or any part of its interests under this Agreement to any successor.

### **ARTICLE 3. DURATION OF AGREEMENT**

#### **3.1 Term of Performance**

This Agreement takes effect as of the Effective Date and continues, except as provided under Sections 4.5 or Article 8, until the later of February 1, 2013, as that date may be extended under Section 3.3

#### **3.2 Timeliness of Performance**

(a) Contractor must provide the Services and Deliverables within the time limits required under this Agreement pursuant to the provisions of Section 2.1 and Exhibit 1. **Further, Contractor acknowledges that TIME IS OF THE ESSENCE and that the failure of Contractor to comply with the required time limits may result in economic or other losses to the City.**

(b) Neither Contractor nor Contractor's agents, employees or Subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other losses or expenses incurred by Contractor by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

#### **3.3 Agreement Extension Option**

The Chief Procurement Officer may at any time before this Agreement expires elect to extend this Agreement for up to one additional 2-year period, under the same terms and conditions as this original Agreement, by written amendment in accordance to Section 9.3.

### **ARTICLE 4. COMPENSATION**

#### **4.1 Basis of Payment**

The City will pay Contractor according to the Schedule of Compensation in the attached Exhibit 2 for the completion of the Services in accordance with this Agreement, including the standard of performance in Section 2.3.

#### **4.2 Method of Payment**

Contractor must submit monthly invoices to the City for costs billed, as outlined in the Schedule of Compensation in Exhibit 2. The invoices must be in such detail as the City requests.



The City will process payment within 60 days after receipt of invoices and all supporting documentation necessary for the City to verify the Services provided under this Agreement.

#### **4.3 Funding**

The source of funds for payments under this Agreement is Fund number 007-0100-058-4140-0162-220162 and any other funds that may be appropriated. Payments under this Agreement must not exceed \$ 32,109,090.00 without a written amendment in accordance with Section 9.3. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City.

#### **4.4 Reduction of Compensation**

(a) For each System that is not operational (in accordance with the terms of this Agreement) 95 percent of any consecutive 30-day period, the City will suffer harm that is difficult or impossible to calculate, including loss of revenue relating to Red Light Violations for which citations were not issued. To help defray these losses, Contractor will pay the City for each System that is operational less than 95 percent of any consecutive 30-day period, as liquidated damages, and not as a penalty, \$250 multiplied by the difference between 95 percent and the percentage that the System was operational during that 30-day period, but not more than \$2,750 per System per 30-day period. This calculation excludes situations outside of the Contractor's control such as bad power, knockdowns, deterioration of roads, and incorrect phasing (signal controller sequence).

(b) For purposes of this Section 4.4(b), "Program-wide Enforceability Percentage" means the number of Enforceable Images from all the Systems during any consecutive 30-day period divided by the aggregate number of Red Light Violations from all the Systems during that consecutive 30-day period, multiplied by 100. For purposes of this Section 4.4(b), "System Enforceability Percentage" means the number of Enforceable Images from a System during any consecutive 30-day period divided by the number of Red Light Violations from that System during that consecutive 30-day period, multiplied by 100. If the Program-wide Enforceability Percentage is less than 85, then the City will suffer harm that is difficult or impossible to calculate, including loss of revenue relating to Red Light Violations for which citations were not issued. To help defray these losses, Contractor will pay the City as liquidated damages, and not as a penalty, for each consecutive 30-day period in which the Program-wide Enforceability Percentage is less than 85, an amount equal to the product of \$85 multiplied by (i) multiplied by (ii), where:

(i) = The lesser of five (5) or the difference between 85 minus the Program-wide Enforceability Percentage for the applicable consecutive 30-day period;

(ii) = The number of Systems.

For purposes of calculating the Program-wide Enforceability Percentage and the System

Enforceability Percentage the number of Red Light Violations will not include Red Light Violations: (a) for which the view from the System camera to the license plate of the vehicle committing the Red Light Violation is obstructed by either a ball hitch on the vehicle committing the Red Light Violation or a third-party vehicle; (b) for which the license plate of the vehicle committing the Red Light Violation is out of the camera frame because the vehicle is within more than one lane of traffic; and (c) that occur between the time a System pole is knocked-down by a third party and the earlier of the time that the pole is repaired (e.g., re-installed) by Contractor or 24 hours after the knock-down of the pole.

(c) The value of the Systems to the City is based, in part, on Contractor's providing the support, maintenance, repair, digital image verification and web-based authorization services in accordance with the terms of this Agreement. If in the sole determination of the Chief Procurement Officer, Contractor ceases to provide the Services noted in the preceding sentence in accordance with the terms of this Agreement, then the City will suffer harm that is difficult or impossible to calculate, including loss of value of the Systems. To help defray these losses, Contractor will pay the City as liquidated damages, and not as a penalty, for each System that the City has purchased: an amount equal to \$35,000.00 multiplied by [(60 minus the number of months that have lapsed since System Acceptance of the System) divided by 60].

(d) The City may offset such assessed liquidated damages against any amounts the City may owe to Contractor, but if the amount the City owes Contractor is inadequate to cover the amount to be offset, Contractor must promptly pay the City the amount of liquidated damages or the difference between them and the amount the City owes Contractor, as applicable.

(e) This provision is in addition to all of the City's rights and remedies for an event of default under this Agreement and in no way limits the City's ability to declare an event of default for Contractor's failure to comply with any term under this Agreement. Furthermore, any deduction made to payments due to Contractor under this provision in no way waives any of Contractor's performance obligations under this Agreement.

(f) The liquidated damages described above apply only to the specific performance events described above and not to any other events. The City retains the right to seek actual damages, including general breach of contract damages as a result of termination of this Agreement, for any events not specifically covered in paragraphs (a) through (b) above.

#### **4.5 Non-Appropriation**

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, then the City will notify Contractor in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for Services completed to the date of notification will be made to Contractor except that no payments will be made or due to Contractor under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

#### **4.6 Subcontractor Payments**

Contractor must submit a status report of Subcontractor payments with each invoice for the duration of the Agreement on the "Subcontractor Payment Certification" form required by the City. The form can be downloaded from the City's website at [http://egov.cityofchicago.org/webportal/COCWebPortal/COC\\_EDITORIAL/subcompliance.pdf](http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/subcompliance.pdf). The statement must list the following for Contractor and for each Subcontractor and supplier for the period for which payment is requested:

- (i) Total amount invoiced by the Contractor for the prior month;
- (ii) The name of each particular Subcontractor or supplier utilized during the prior month;
- (iii) Indication if the Subcontractor or supplier is acting as an MBE, WBE, DBE, or non-certified firm on this Agreement;
- (iv) The vendor/supplier number of each Subcontractor or supplier;
- (v) Total amount invoiced that is to be paid to each Subcontractor or supplier.

If a Subcontractor has satisfactorily completed its work, or provided specified materials in accordance with the requirements of the Agreement, Contractor must pay Subcontractor for such work or materials within fourteen (14) calendar days of Contractor receiving payment from the City.

#### **ARTICLE 5. DISPUTES**

Except as otherwise provided in this Agreement, Contractor must and the City may bring any dispute arising under this Agreement which is not resolved by the parties to the Chief Procurement Officer for decision based upon the written submissions of the parties. (A copy of the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago" is available in City Hall, 121 N. LaSalle Street, Room 301, Bid and Bond Room, Chicago, Illinois 60602.) The Chief Procurement Officer will issue a written decision and send it to the Contractor by mail. The decision of the Chief Procurement Officer is final and binding. The sole and exclusive remedy to challenge the decision of the Chief Procurement Officer is judicial review by means of a common law writ of certiorari.

#### **ARTICLE 6. COMPLIANCE WITH ALL LAWS**

##### **6.1 Compliance with All Laws Generally**

(a) Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 6, and Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Contractor must require all Subcontractors to do so, also. Further, Contractor must execute an



Economic Disclosure Statement and Affidavit ("**EDS**") in the form attached to this Agreement as Exhibit 4. Notwithstanding acceptance by the City of the EDS, Contractor's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Contractor must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

## **6.2 Nondiscrimination**

### **(a) Contractor**

Contractor must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups.

#### **(i) Federal Requirements**

Contractor must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting, segregating or classifying Contractor's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. §§621-34; Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

#### **(ii) State Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code § 750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

(iii) **City Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Chicago Human Rights Ordinance, ch. 2-160, Section 2-160-010 *et seq.* of the Municipal Code of Chicago (1990), as amended, and all other applicable City ordinances and rules.

(b) **Subcontractors**

Contractor must incorporate all of this Section 6.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Contractor must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

**6.3 Inspector General**

It is the duty of any bidder, proposer or Contractor, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Contractor, Subcontractor or such applicant to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

**6.4 MacBride Ordinance**

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Contractor conducts any business operations in Northern Ireland, the Contractor must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act

85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 6.4 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

## **6.5 Business Relationships with Elected Officials**

Pursuant to § 2-156-030(b) of the Municipal Code , it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. **Violation of Section 2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement.** The term business relationship is defined as set forth in § 2-156-080 of the Municipal Code .

Section 2-156-080 defines a "**business relationship**" as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A "contractual or other private business dealing" shall not include any employment relationship of an official's spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

## **6.6 Chicago "Living Wage" Ordinance**

(a) Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers ("**Covered Employees**"). Accordingly, pursuant to Section 2-92-610 and regulations promulgated under it:



- (i) If Contractor has 25 or more full-time employees, and
  - (ii) If at any time during the performance of this Agreement, Contractor and/or any Subcontractor or any other entity that provides any portion of the Services (collectively "**Performing Parties**") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then
  - (iii) Contractor must pay its Covered Employees, and must ensure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the "**Base Wage**") for all Services performed under this Agreement.
- (b) Contractor's obligation to pay, and to ensure payment of, the Base Wage will begin at any time during the term of this Agreement when the conditions set forth in (a)(i) and (a)(ii) above are met, and will continue until the end of the term of this Agreement.
- (c) As of July 1, 2008, the Base Wage is \$10.60 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this Agreement, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for Services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then Contractor and all other Performing Parties must pay the prevailing wage rates.
- (d) Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. Contractor agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by Contractor or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit Contractor and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.
- (e) Not-for-Profit Corporations: If Contractor is a corporation having federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of subsections (a) through (d) above do not apply.

## **6.7 Environmental Warranties and Representations**

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Contractor warrants and represents that it, and to the best of its knowledge, its subcontractors have not

violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;
- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge;
- 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid waste;
- 11-4-1530 Compliance with rules and regulations required;
- 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the period while this Agreement is executory, Contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Agreement, at law or in equity.

This section does not limit Contractor's and its subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Agreement.

Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect Contractor's eligibility for future contract awards.

#### **6.8 Prohibition on Certain Contributions**

Contractor agrees that Contractor, any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, Contractor's subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any subcontractor of more than 7.5 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City of Chicago ("**Mayor**") or to his political fundraising committee (i) after execution of this Agreement by Contractor, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Contractor and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City



approached Contractor or the date Contractor approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Contractor agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

Contractor agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

Contractor agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 05-1 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 05-1 prior to award of the Agreement resulting from this specification, the Chief Procurement Officer may reject Contractor's bid.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Contractor is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "Domestic Partners" if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and

- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
  - 1. The partners have been residing together for at least 12 months.
  - 2. The partners have common or joint ownership of a residence.
  - 3. The partners have at least two of the following arrangements:
    - a. joint ownership of a motor vehicle;
    - b. a joint credit account;
    - c. a joint checking account;
    - d. a lease for a residence identifying both domestic partners as tenants.
  - 4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal code of Chicago, as amended."

#### **6.9 Firms Owned or Operated by Individuals with Disabilities**

The City encourages Contractors to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

#### **6.10 Deemed Inclusion**

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement.

#### **6.11 False Statements**

- (a) 1-21-010 False Statements

Any person who knowingly makes a false statement of material fact to the city in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than \$500.00 and not

more than \$1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.

The penalties imposed by this section shall be in addition to any other penalty provided for in the municipal code. (Added Coun. J. 12-15-04, p. 39915, § 1)

(b) 1-21-020 Aiding and abetting.

Any person who aids, abets, incites, compels or coerces the doing of any act prohibited by this chapter shall be liable to the city for the same penalties for the violation. (Added Coun. J. 12-15-04, p. 39915, § 1)

(c) 1-21-030 Enforcement.

In addition to any other means authorized by law, the corporation counsel may enforce this chapter by instituting an action with the department of administrative hearings. (Added Coun. J. 12-15-04, p. 39915, § 1)

## **ARTICLE 7. SPECIAL CONDITIONS**

### **7.1 Warranties and Representations**

In connection with signing and carrying out this Agreement, Contractor:

(a) warrants that Contractor is appropriately licensed under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license is required by law and for which Contractor is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this Agreement; and Contractor is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of its Services under this Agreement;

(d) warrants that Contractor and its Subcontractors are not in default at the time this Agreement is signed, and have not been deemed by the Chief Procurement Officer to have, within 5 years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the City ;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own



analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and Contractor warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(f) represents that Contractor and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of § 2-92-320 of the Municipal Code , and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 8.2 and 8.3 of this Agreement; and

(h) warrants and represents that neither Contractor nor an Affiliate of Contractor (as defined below) appears on the Specially Designated Nationals List, the Denied Persons List, the unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce (or their successors), or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment. "Affiliate of Contractor" means a person or entity that directly (or indirectly through one or more intermediaries) controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity (either acting individually or acting jointly or in concert with others) whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

## **7.2 Ethics**

(a) In addition to the foregoing warranties and representations, Contractor warrants:

(i) no officer, agent or employee of the City is employed by Contractor or has a financial interest directly or indirectly in this Agreement or the compensation to be paid under this Agreement except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code .

(ii) no payment, gratuity or offer of employment will be made in connection with this Agreement by or on behalf of any Subcontractors to Contractor or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(b) Contractor further acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 is voidable as to the City.

### **7.3 Joint and Several Liability**

If Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this Agreement, each and without limitation every obligation or undertaking in this Agreement to be fulfilled or performed by Contractor is the joint and several obligation or undertaking of each such individual or other legal entity.

### **7.4 Business Documents**

At the request of the City, Contractor must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

### **7.5 Conflicts of Interest**

(a) No member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains is permitted to have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee is allowed to be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

(b) Contractor represents that it, and to the best of its knowledge, its Subcontractors if any (Contractor and Subcontractors will be collectively referred to in this Section 7.5 as "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

(c) Upon the request of the City, Consulting Parties must disclose to the City their past client lists and the names of any clients with whom they have an ongoing relationship. Consulting Parties are not permitted to perform any Services for the City on applications or other documents submitted to the City by any of Consulting Parties' past or present clients. If Consulting Parties become aware of a conflict, they must immediately stop work on the assignment causing the conflict and notify the City.

(d) Without limiting the foregoing, if the Consulting Parties assist the City in determining the advisability or feasibility of a project or in recommending, researching, preparing, drafting or issuing a request for proposals or bid specifications for a project, the Consulting Parties must not participate, directly or indirectly, as a prime, subcontractor or joint venturer in that project or in the preparation of a proposal or bid for that project during the term of this Agreement or afterwards. The Consulting Parties may, however, assist the City in reviewing the proposals or bids for the project if none of the Consulting Parties have a relationship with the persons or entities that submitted the proposals or bids for that project.

(e) Further, Consulting Parties must not assign any person having any conflicting interest to perform any Services under this Agreement or have access to any confidential information, as described in Section 2.11 of this Agreement. If the City, by the Executive Director in his reasonable judgment, determines that any of Consulting Parties' services for others conflict with the Services that Consulting Parties are to render for the City under this Agreement, Consulting Parties must terminate such other services immediately upon request of the City.

(f) Furthermore, if any federal funds are to be used to compensate or reimburse Contractor under this Agreement, Contractor represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. § 1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, Contractor must execute a Certification Regarding Lobbying, which is part of the EDS and incorporated by reference as if fully set forth here.

#### **7.6 Non-Liability of Public Officials**

Contractor and any assignee or Subcontractor of Contractor must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

#### **7.7 EDS / Certification Regarding Suspension and Debarment**

Contractor certifies, as further evidenced in the EDS attached as Exhibit 4, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Contractor further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Contractor or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

### **ARTICLE 8. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET**

#### **8.1 Events of Default Defined**

The following constitute events of default:

- (a) Any material misrepresentation, whether negligent or willful and whether in the



inducement or in the performance, made by Contractor to the City.

(b) Contractor's failure to perform any of its obligations under this Agreement including the following:

- (i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
- (ii) Failure to have and maintain all professional licenses required by law to perform the Services;
- (iii) Failure to timely perform the Services;
- (iv) Failure to perform the Services in a manner reasonably satisfactory to the Executive Director or the Chief Procurement Officer or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
- (v) Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
- (vi) Discontinuance of the Services for reasons within Contractor's reasonable control;
- (vii) Failure to comply with Section 6.1 in the performance of the Agreement;
- (viii) Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate; and
- (ix) Any other acts specifically stated in this Agreement as constituting an act of default.

(c) Any change in ownership or control of Contractor without the prior written approval of the Chief Procurement Officer (when such prior approval is permissible by law), which approval the Chief Procurement Officer will not unreasonably withhold.

(d) Contractor's default under any other agreement it may presently have or may enter into with the City for the duration of this Agreement. Contractor acknowledges that in the event of a default under this Agreement the City may also declare a default under any such other agreements.

(e) Contractor's violation of City ordinance(s) unrelated to performance under the Agreement such that, in the opinion of the Chief Procurement Officer, it indicates a willful or reckless disregard for City laws and regulations.

(f) Contractor's failure to update its EDS to reflect any changes in information, including changes in ownership, and to provide it to the City as provided under Section 6.1(a).

## 8.2 Remedies

(a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Contractor in default. The Chief Procurement Officer may in his sole discretion give Contractor an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the Chief Procurement Officer. Whether to declare Contractor in default is within the sole discretion of the Chief Procurement Officer and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

The Chief Procurement Officer will give Contractor written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Chief Procurement Officer gives a Default Notice, he will also indicate any present intent he may have to terminate this Agreement, and the decision to terminate is final and effective upon giving the notice. If the Chief Procurement Officer decides not to terminate, this decision will not preclude him from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Chief Procurement Officer may give a Default Notice if Contractor fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 8.2 and Article 10, Contractor must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the City.

(b) Exercise of Remedies. After giving a Default Notice, the City may invoke any or all of the following remedies:

(i) The right to take over and complete the Services, or any part of them, at Contractor's expense and as agent for Contractor, either directly or through others, and bill Contractor for the cost of the Services, and Contractor must pay the difference between the total amount of this bill and the amount the City would have paid Contractor under the terms and conditions of this Agreement for the Services that were assumed by the City as agent for Contractor under this Section 8.2;

(ii) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;

(iii) The right of specific performance, an injunction or any other appropriate equitable remedy;

(iv) The right to money damages;



(v) The right to withhold all or any part of Contractor's compensation under this Agreement;

(vi) The right to deem Contractor non-responsible in future contracts to be awarded by the City;

(vii) The right to declare default on any other contract or agreement Contractor may have with the City.

(c) City's Reservation of Rights. If the Chief Procurement Officer considers it to be in the City's best interests, he may elect not to declare default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the City permits Contractor to continue to provide the Services despite one or more events of default, Contractor is in no way relieved of any of its responsibilities, duties or obligations under this Agreement, nor does the City waive or relinquish any of its rights.

(d) Non-Exclusivity of Remedies. The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

### **8.3 Early Termination**

(a) In addition to termination under Sections 8.1 and 8.2 of this Agreement, the City may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a notice in writing from the City to Contractor. The City will give notice to Contractor in accordance with the provisions of Article 10. The effective date of termination will be the date the notice is received by Contractor or the date stated in the notice, whichever is later. If the City elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the City effective 10 days after the date the notice is considered received as provided under Article 10 of this Agreement (if no date is given) or upon the effective date stated in the notice.

(b) After the notice is received, Contractor must restrict its activities, and those of its Subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in Article 4, but if any compensation is described or provided for on the basis of a period longer than 10 days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed Services. The

City and Contractor must attempt to agree on the amount of compensation to be paid to Contractor, but if not agreed on, the dispute must be settled in accordance with Article 5 of this Agreement. The payment so made to Contractor is in full settlement for all Services satisfactorily performed under this Agreement.

(c) Contractor must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Contractor will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Contractor or the City.

(d) If the City's election to terminate this Agreement for default under Sections 8.1 and 8.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 8.3.

#### **8.4 Suspension**

The City may at any time request that Contractor suspend its Services, or any part of them, by giving 15 days prior written notice to Contractor or upon informal oral, or even no notice, in the event of emergency. No costs incurred after the effective date of such suspension are allowed. Contractor must promptly resume its performance of the Services under the same terms and conditions as stated in this Agreement upon written notice by the Chief Procurement Officer and such equitable extension of time as may be mutually agreed upon by the Chief Procurement Officer and Contractor when necessary for continuation or completion of Services. Any additional costs or expenses actually incurred by Contractor as a result of recommencing the Services must be treated in accordance with the compensation provisions under Article 4 of this Agreement.

No suspension of this Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this Agreement. If the total number of days of suspension exceeds 45 days, Contractor by written notice to the City may treat the suspension as an early termination of this Agreement under Section 8.3.

#### **8.5 Right to Offset**

(a) In connection with Contractor's performance under this Agreement, the City may offset any incremental costs and other damages the City incurs in any or all of the following circumstances:

(i) if the City terminates this Agreement for default or any other reason resulting from Contractor's performance or non-performance;

(ii) if the City exercises any of its remedies under Section 8.2 of this Agreement;

(iii) if the City has any credits due or has made any overpayments under this Agreement.

The City may offset these incremental costs and other damages by use of any payment due for Services completed before the City terminated this Agreement or before the City exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, Contractor is liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

(b) As provided under § 2-92-380 of the Municipal Code, the City may set off from Contractor's compensation under this Agreement an amount equal to the amount of the fines and penalties for each *outstanding parking violation complaint* and the amount of any *debt* owed by Contractor to the City as those italicized terms are defined in the Municipal Code.

(c) In connection with any liquidated or unliquidated claims against Contractor, and without breaching this Agreement, the City may set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated claims that the City has against Contractor unrelated to this Agreement. When the City's claims against Contractor are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the City will reimburse Contractor to the extent of the amount the City has offset against this Agreement inconsistently with such determination or resolution.

## **ARTICLE 9. GENERAL CONDITIONS**

### **9.1 Entire Agreement**

#### **(a) General**

This Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

#### **(b) No Collateral Agreements**

Contractor acknowledges that, except only for those representations, statements or promises contained in this Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Contractor to enter into this Agreement or has been relied upon by Contractor, including any with reference to: (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this Agreement; (iv) the general conditions which may in any way affect this Agreement or its



performance; (v) the compensation provisions of this Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

**(c) No Omissions**

Contractor acknowledges that Contractor was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this Agreement before signing this Agreement in order that it might request inclusion in this Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Contractor did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, Contractor relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

**9.2 Counterparts**

This Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

**9.3 Amendments**

No changes, amendments, modifications or discharge of this Agreement, or any part of it are valid unless in writing and signed by the authorized agent of Contractor and by the Mayor, Comptroller, and Chief Procurement Officer of the City or their respective successors and assigns. The City incurs no liability for Additional Services without a written amendment to this Agreement under this Section 9.3.

Whenever under this Agreement Contractor is required to obtain the City's prior written approval, the effect of any approval that may be granted pursuant to Contractor's request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.

**9.4 Governing Law and Jurisdiction**

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois.

Contractor irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Service

of process on Contractor may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Contractor, or by personal delivery on any officer, director, or managing or general agent of Contractor. If any action is brought by Contractor against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

#### **9.5 Severability**

If any provision of this Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

#### **9.6 Assigns**

All of the terms and conditions of this Agreement are binding upon and inure to the benefit of the parties and their respective legal representatives, successors and assigns.

#### **9.7 Cooperation**

Contractor must at all times cooperate fully with the City and act in the City's best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, Contractor must make every effort to ensure an orderly transition to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the Department in connection with the termination or expiration.

#### **9.8 Waiver**

Nothing in this Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this Agreement the City by a proper authority waives Contractor's performance in any respect or waives a requirement or condition to either the City's or Contractor's performance, the waiver so granted, whether express or implied, only applies to the

particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this Agreement regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Contractor in writing.

## **9.9 Independent Contractor**

(a) This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Contractor and the City. The rights and the obligations of the parties are only those set forth in this Agreement. Contractor must perform under this Agreement as an independent contractor and not as a representative, employee, agent, or partner of the City.

(b) This Agreement is between the City and an independent contractor and, if Contractor is an individual, nothing provided for under this Agreement constitutes or implies an employer-employee relationship such that:

(i) The City will not be liable under or by reason of this Agreement for the payment of any compensation award or damages in connection with the Contractor performing the Services required under this Agreement.

(ii) Contractor is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave, or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

(iii) The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Contractor.

## **9.10 Electronic Ordering and Invoices**

The Contractor shall cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to catalogs, purchase orders, releases, and invoices. Contractor shall accept electronic purchase orders and releases upon request of the Chief Procurement Officer. Contractor shall provide the City electronic catalogs, copies of invoices and other electronic documents upon request. The electronic ordering and invoice documents shall be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The Chief Procurement Officer reserves the right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor shall ensure that the essential information, as determined by the Chief Procurement Officer, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents. The electronic documents shall be in addition to paper



documents required by this contract, however, by written notice to the Contractor, the Chief Procurement Officer may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

#### **9.11 Participation by Other Local Government Agencies**

Other local government agencies may be eligible to participate in this agreement pursuant to the terms and conditions of this Contract if such agencies are authorized, by law or their governing bodies, to execute such purchases, and if such authorization is allowed by the City of Chicago's Chief Procurement Officer, and if such purchases have no net adverse effect on the City of Chicago, and result in no diminished services from the Contractor to the City's user departments pursuant to such purchases. Examples of such Local Government Agencies are: Board of Education, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier and Exposition Authority (McCormick Place, Navy Pier), and the Municipal Courts. Said purchases shall be made upon the issuance of a purchase order directly from the Local Government Agency. The City will not be responsible for payment of any amounts owed by any other Local Government Agencies, and will have no liability for the acts or omissions of any other Local Government Agency.

#### **9.12 Force Majeure**

No failure or delay by either party in the performance of its obligations pursuant to this Agreement shall be deemed a default of this Agreement to the extent such failure or delay is due to a "Force Majeure Event," provided that such failure or delay could not have been prevented or mitigated by reasonable precautions and cannot reasonably be circumvented by the nonperforming party through the use of alternate sources, workaround plans, or other means. "Force Majeure Event" means fire, flood, earthquake, act of war, terrorism, riot, civil disorder, or other such event or condition beyond the relevant party's reasonable control.

#### **9.13 Order of Precedence**

In the event of any conflict or inconsistency or terms among the various documents that at any given time, constitute this Agreement, the order of precedence that shall apply is as follows, with each listed document or type of document superseding and prevailing over any subsequently listed document or type of document, and with later-executed documents prevailing over earlier documents of the same type, each solely to the extent of any irreconcilable conflict or inconsistency of the terms and condition thereof: (i) the terms and conditions set forth in Articles 1 through 11; (ii) the Scope of Work in Exhibit 1; and (iii) any Schedules and Exhibits to this Agreement.

### **ARTICLE 10. NOTICES**

Notices provided for in this Agreement, unless provided for otherwise in this Agreement, must be given in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

If to the City:           Office of Emergency Management and Communications  
                              1411 West Madison Street  
                              Chicago, Illinois 60607  
                              Attention: Executive Director

and

Department of Procurement Services  
Room 403, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Chief Procurement Officer

With Copies to:       Department of Law  
                              Room 600, City Hall  
                              121 North LaSalle Street  
                              Chicago, Illinois 60602  
                              Attention: Corporation Counsel

If to Contractor:       Redflex Traffic Systems, Inc.  
                              23751 N 23<sup>rd</sup> Avenue, Suite 150  
                              Phoenix, Arizona 85085-1854  
                              Attention: Chief Executive Officer

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 10. Notices delivered by mail are considered received three days after mailing in accordance with this Article 10. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

#### **ARTICLE 11. AUTHORITY**

Execution of this Agreement by Contractor is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document, and the signature(s) of each person signing on behalf of Contractor have been made with complete and full authority to commit Contractor to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained in it, including the representations, certifications and warranties collectively incorporated by reference in it.

*[Signature Pages, Exhibits and Schedules follow.]*

**SIGNATURE PAGE**

**SIGNED at Chicago, Illinois:**

**CITY OF CHICAGO**

By:

Richard M. Daley <sup>mayor</sup>  
Mayor

Steven J. Dineen  
Comptroller

Monica M. Taylor  
Chief Procurement Officer

**REFLEX TRAFFIC SYSTEMS, INC.**

By: Karen Finley

Its: President & CEO

Attest: [Signature]

State of: ARIZONA

County of: Maricopa

This instrument was acknowledged before me on 9-26-08 (date) by Sandra Stevens (name/s of person/s) as Notary Public (type of authority, e.g., officer, trustee, etc.) of ARIZONA (name of party on behalf of whom instrument was executed).

[Signature]  
(Signature of Notary Public)

Commission Expires: 2/27/09





## **EXHIBIT 1**

### **SCOPE OF WORK**

#### **SUPPORT, MAINTENANCE, AND REPAIR (INCLUDING REPLACEMENT) SERVICES**

##### **Improved Technology**

As part of the Support, Maintenance and Repair Services, Contractor shall (i) identify to City new equipment or information processing technology developments or in accordance with the Scope of Work, including new software and hardware developments, that could reasonably be expected to have an impact on the Support, Maintenance and Repair Services (the "Improved Technology") and (ii) make recommendations to City for installation of the equipment on the System of such Improved Technology as Contractor deems would improve Contractor's performance of the Support, Maintenance and Repair Services (a "Recommended Installation"). If City approves Contractor's implementation of such Recommended Installation and Contractor realizes any cost savings in providing the Designated Services as a result of the implementation, of such Recommended Installation, Contractor shall identify such savings to City and City shall be entitled to a proportionate reduction in the monthly fees for any such Improved Technology for which the cost savings has been identified.

##### **Support and Maintenance, generally:**

Contractor will provide the following support services and maintenance and repair services:

- a. Provide a project manager, located within the Chicago area, who is available 24 hours a day, 7 days a week, to answer questions and resolve issues relating to the Systems;
- b. A 24-hour help line;
- c. Provide dedicated site support through pre-emptive and on-site maintenance and repair (including replacement) programs designed to identify potential problems expeditiously before they affect System operations as well as the repair of identified discrepancies while minimizing downtime to operational systems;
- d. Run/maintain/monitor Systems at peak efficiency;
- e. Maintain and upgrade software and hardware support for the duration of the Agreement;
- f. Remote and on-site troubleshooting and debugging for production issues daily to ensure Enforceable Images are produced;

- g. On-site assistance for planners, users, super users and end user training;
- h. Equipment, Software, and documentation support; and
- i. Integration workflows support.
- j. Exterior cleaning of cabinets and camera enclosures.
- k. Graffiti removal at each location. Technicians will paint over graffiti and touch up equipment as needed.
- l. Preliminary electrical grounding inspection and verification, each foundation is given a ground rod. Onsite visits require the technician to confirm connections to each ground rod.
- m. Incoming AC voltage checks using a digital volt meter. Any locations showing a 10% variance of the expected rated voltage is reported to Chicago Streets and Sanitation, Bureau of Electricity (BOE).
- n. The 12Volt power supply is confirmed operational and a check of the voltage is done. If there is a ½ volt or greater difference an adjustment is made.
- o. Ohm resistance checks to ensure that loop detection devices are functioning properly; if a reading greater than 2 Ohms is measured the loop is inspected.
- p. Physically opening each cabinet and inspecting to ensure cleanliness and safe connectivity of all wiring and switches.
- q. Clean the glass of each system and weather treat it.
- r. Inspection and verification of heating elements.
- s. Confirm all PHOTO ENFORCEMENT signs to be in place.
- t. Check of Quazite box and examination of loop splices.
- u. Removal of ice and snow as weather dictates.
- v. Street inspection to ensure that roadway conditions, to include painted violation lines, are suitable for detection and prosecution.
- w. Communications verification by PINGING a specific remote IP address.
- x. Certification validity will be checked and renewed as needed.

- y. Recording and documenting each visit, an onsite worksheet is filled out by the technician and is kept electronically.
- z. A monthly maintenance report detailing results will be given to appropriate City officials.

Contractor personnel will coordinate with the various utilities prior to City permitting of utility roadworks (blue stake).

#### **Equipment Maintenance and Support**

Contractor will provide a comprehensive Equipment maintenance and support program through pre-emptive and on-site maintenance technology (to allow for download of Systems diagnostics for scheduling of preventative maintenance on a daily basis), remote status checks, and emergency response.

On a daily basis, Contractor will ensure that each System meets the following parameters and will perform the following performance tests:

- a. The camera has a valid certificate to ensure it is authorized to process encrypted information;
- b. The enforcement mode is enabled and in the correct mode (e.g. red light only, speed only, or both);
- c. The time in the red phase at which point the cameras capture Red Light Violations is properly configured;
- d. The detection device that interfaces to the external input signals at the intersection (i.e., inductive loop signals) is configured and functioning correctly;
- e. Each lane enforced has the appropriate image capture settings configured to capture the offending vehicle at the appropriate time during the violation, and that it is set to the correct enforcement mode (e.g. red light only, speed only or both);
- f. The System settings are properly set (e.g., the speed limit is selected to be imprinted on the violation; the data block has accurate information identifying the proper location, machine identification and software version used; the loop separation is accurate in accordance with loop installation positioning; and the individual cameras aperture, focus, zoom, and exposure are properly configured for each individual camera);
- g. The download folder (where the Red Light Violation digital images are stored locally until Contractor downloads them) is properly configured;
- h. The detection systems have proper activity and signaling sequencing (e.g., the detection device is communicating with the main camera system; red and green phase indications are represented for each signal phase change; still images can be captured in real time



remotely to verify that the phase message received from the detection device corresponds to the phase shown in the live still image taken; and each lane being monitored by the detection device has the appropriate number of messages to capture an offending vehicle); and

- i. A real time offense simulation system check is performed during the "green phase" of the signaling to verify proper operation and sequencing of image sets. This final check simulates a Red Light Violation to verify all System parameters including image capture and encryption packaging are functioning properly.
- j. Liability of Roads – Contractor's liability for road conditions is one year after acceptance of the system. After one year, the City will be responsible to ensure road surfaces are repaired and in a condition that allows for ongoing system operation so no sensor deterioration is experienced.
- k. Power – Contractor requires 120Vac and a 40 Amp breaker to be provided by the City. City is to provide a minimum of 118Vac to 122Vac and a minimum of 20 Amps to Contractor's equipment.
- l. Knockdowns – Contractors commits to the City to have system knockdowns rebuilt within 48 to 72 hours. System knockdown will not be calculated against the agreed 95 percent operation time stipulation. The cost associated with the repair and or replacement of parts and/or associated construction of the knockdowns will be invoiced to the City.
- m. Vandalism – Contractor commits to the City to have system operation interruption due to vandalism rebuilt and operational within 48 to 72 hours. Down time due to vandalism will not be calculated against the agreed 95 percent operation time stipulation. The cost associated with the repair and/or associated construction due to vandalism will be invoiced to the City.
- n. Street Resurfacing or Utility Work – Contractor commits to the City to have operations restored within 48 to 72 hours of conditions allowing proper system functions or completion of resurfacing or utility work. Down time due to street resurfacing or utility work will not be calculated against the agreed 95 percent operation time stipulation. The cost associated with the repairs due to street resurfacing or utility work will be invoiced to the City.

#### **Pre-emptive Maintenance**

Contractor will perform periodic maintenance inspections to ensure potential problems are identified before a malfunction occurs. Pre-emptive maintenance is executed each time a technician responds to perform maintenance function during on-site visits, but in no event less frequently than monthly. Pre-emptive maintenance includes, but is not limited to:

- Cleaning the camera enclosure glass.
- Inspect the cabinet for signs of leaks, wear, and/or damages and clean as necessary.

- Inspecting cables, connectors, and hardware for signs of wear or damage.
- Inspecting poles, bases and enclosures for signs of damage and to ensure proper alignment.
- Inspecting in-ground detection devices for signs of wear or damage.
- Testing cabinet safety devices for proper operation to ensure safe working conditions for maintenance personnel and the general public to operating voltages.

Contractor will document the pre-emptive maintenance tasks in the intersection maintenance log for every inspection being performed. Entries will include:

- Date and time inspection performed.
- Technician performing inspection.
- Results of the inspection.
- The next scheduled maintenance inspection due date.
- Reason for inspection. (i.e. scheduled or as a result of other maintenance).

The pre-emptive maintenance program will be monitored and scheduled by Contractor's lead technician; Contractor maintenance technicians, authorized sub-contractors or trained local support teams authorized to perform maintenance in accordance with established maintenance agreements will perform inspections.

### **Remote Status Checks**

Contractor will perform "remote status checks." Remote status checks consist of two (2) distinct segments; daily operational and quality checks, which together provide positive, near real time; and daily operational feedback that the System is functioning properly and producing the desired results.

#### **a. Daily Operational System Checks**

The central server automatically downloads digital violation images from the camera locations to Contractor. From this download, automated reports are generated by the system, and Contractor evaluates the daily activity of the intersection cameras and the central server to determine if there are any anomalies on the data provided.

The reports generated contain red light offense detection information, which indicates the number of red light incidents detected in each lane for each monitored approach and incidents reviewed that do not meet the minimum required amount of still images such as the incident file contained one (1) scene image and one (1) plate image, when it should have contained two (2) scene images and one (1) plate image.

If detections have occurred and there are no reported missing images at an approach, the System is operating properly. If there have been no detections at an entire approach (each lane of travel for a specific enforced intersection) a series of systems checks are performed and documented in a comprehensive intersection maintenance log.

The daily operational System checks are performed on each individual camera and are accessed remotely via the system's computers through the secure, high-speed communication connection. The daily operational System checks include verifying that the System parameters are properly configured, verifying software settings are accurate, confirm that the detection system is exhibiting proper activity and signaling sequencing, and complete a real life offence simulation (usually triggered during a green phase) to validate it is capturing successfully.

**b. Daily Quality Checks**

On a daily basis, Contractor's Violation Processing Department will review the images from the Systems as they are downloaded and processed to be forwarded to the Department of Revenue. If Contractor discovers a quality problem such as a license plate is blurry, camera alignment is not correct or the video is not functioning properly, it will log (on the day that the image is reviewed) the malfunction on an internal website, which is monitored by the Technical Services Department, and provide the information regarding the quality problem in a written report to the Executive Director.

Once the discrepancies are logged, Contractor will prepare a work order for the necessary repair and replacement work and promptly repair (as necessary) the System, so the System performs in accordance with the terms of this Agreement. Upon request, Contractor will provide the Executive Director with a copy the work orders.

**Response Time**

Contractor will provide daily support of Systems, including a maximum four-hour response time during business hours to maintenance and repair (including replacement) issues.

**Repair and Replacement**

Contractor will repair and replace the Systems, as necessary to comply with the Scope of Services in Section 2.1.

**Operational Support**

**Digital Image Verification and Storage / Revenue Coordination**

Within two (2) business days following the date on which an apparent Red Light Violation is recorded by a System, Contractor will perform Digital Image Verification and transfer to the Department of Revenue those digital images that Contractor reasonably believes would constitute Enforceable Images (the "Verification Images"). Contractor will provide the City with internet access to Contractor's "Police Authorization" module to enable the Department of Revenue to review the Verification Images (see paragraph item H.2 below). Within two (2) days following notice from the Department of Revenue, Contractor will transfer (via an FTP site) to the Department of Revenue those digital images that the Department of Revenue has determined constitute Enforceable Images. In accordance with Section 9-102-030 of the Municipal Code of the City of Chicago, the Department of Revenue, as opposed to Contractor, is responsible for mailing citations to the registered owner of the vehicle that committed a violation of Sections 9-8-020(c) or 9-16-030(c) of the Municipal Code of the City of Chicago.



Contractor will store all images produced by the Systems and related data for two (2) years from the date that such image and data were produced. Contractor will store each day's images in a separate directory.

#### **Web-Based Authorization Services**

Contractor will provide web-based access to the City for verifying Red Light Violations. That web-based access will be available 24 hours a day, 7 days a week with the following exception: routine maintenance performed on weekends between 4 a.m. and 6 a.m. Central Standard Time. Contractor must obtain the Executive Director's approval prior to installing any upgrades (including browser and encryption upgrades) that may affect the City's ability to connect to Contractor's website or the FTP server's ability to perform normal operations.

Contractor's web-based access will provide the City the ability to review and approve or reject Red Light Violations. Contractor will send to the City via FTP all Red Light Violations that are approved by the City for processing as a citation. All data created during this process is the property of the City. Contractor will provide the City with web-based access to reports regarding the quantities of Red Light Violations from each System and the reasons for Contractor's determining that an image was not a Verification Image. The City will use a public utility crystal report generation tool combined with Internet Explorer version 5.0 or higher to access those reports.

#### **Relocation**

At the request of the Executive Director, Contractor will temporarily remove (and re-install) or relocate a System with the In-Ground Loops. Contractor will install each relocated System in accordance with the terms in the existing City of Chicago Contract Number 16396, Exhibit 1B – Scope of Work – Construction and including Exhibit 8 of this Agreement. All work performed within the public way must meet all applicable City and State of Illinois standards for construction including those standards relating to traffic control. Costs associated with the relocation of the system will be invoiced as noted in Exhibit 2, Schedule of Compensation, Optional Relocation Cost.

#### **On Line Viewing of Violations from the Internet**

Contractor will create and maintain a web site, with coordination of the City's Department of Revenue on citation verbiage, specifically designed for citizens the ability to view their violation on-line from any Internet accessible computer. Citizens will be required to type in a city code (which will be provided to them on the citation), the citation number and the license plate of their vehicle. This will give them immediate access to a 12 second full color digital video and digital stills of their specific violation. It is anticipated that this enhanced feature will increase public acceptance of the technology while at the same time reduce the number of appeal hearings requested.

#### **Local Processing Center**

Contractor will also commit to maintaining a processing center within the corporate limits of Chicago. All Contractor performed verifications of Chicago detections will occur at the

processing center. This facility will also house a local Customer Service Representative as well as provide office space and work space for Chicago based technical services staff. This facility is expected to be staffed on a full-time basis.

#### **Statistical and Analytical Reports**

Contractor technicians will provide relevant statistical and analytical reports for the City as needed. A monthly report is generated and given to the Executive Director detailing activities from each System active within the City at that time. This report will include violation counts and prosecutability ratios. Additional reports could be created to meet the informational needs as they develop.

#### **Coordinate and React to FOIA Requests**

Contractor will search data banks for Freedom of Information Act ("FOIA") requested information and if available copy that data onto a suitable media for transmittal to the requesting citizen or news media outlet. Such transmittal could be on a CD, DVD, other electronic means or paper copy.

#### **Increase Storage Capability**

Contractor will increase storage capability in order to record and save digital streaming video from each and every location including non-red light violations within the City for 72 hours. Additionally, Contractor will upon request copy that data to the City in a format that is compatible to the City's equipment.

**AT A MINIMUM, CONTRACTOR WILL PERFORM THE SUPPORT, MAINTENANCE, AND REPAIR (INCLUDING REPLACEMENT) SERVICES DESCRIBED IN THIS EXHIBIT 1 AND TAKE ALL ADDITIONAL ACTIONS AND PROVIDE ALL ADDITIONAL EQUIPMENT, MATERIALS, LABOR, SERVICES, ETC., NECESSARY TO COMPLY WITH THE SCOPE OF SERVICES AND PERFORMANCE STANDARDS SET FORTH IN SECTION 2.3.**

**EXHIBIT 1-A****EQUIPMENT**

Each System will include all Equipment and Software necessary for the System to perform in accordance with the City's Digital Automated Red Light Program, including the following:

<u>Item</u>	<u>Item count per approach</u>	<u>Redflex Part Number</u>
Redflex NK6 Camera Enclosure, 3 Cameras and Computer Housing (Computer installed)	1	DCAM 4/DCAM-30
Redflex Flash Enclosure (Scene /Plate)	2	IFLSH 18
300W Plate flash (Variable)	1	IFLSH 254
600W Scene Flash (Variable)	1	IFLSH 124
Rittal Custom Roadside Cabinet	1	CNSTR 161
Smartscape Color Video Camera & Interface Card	1	DCAM 118/119
Redflex Site Detection Control Module - Loop (for Red-light only approaches)	1	SDCM 23
Peripheral Component Interconnect (PCI) card	1	COMP 49
RS323 to RS422 converter	2	COMP 241
Local Area Network 8 port Hub	1 per intersection	NET 251
Router (Firewall)	1 per intersection	NET 126
15 Watt 12VDC power supply	1	DIN 300
Residual Current Protection Device	2	DIN 299
Redphase/Yellowphase interface relay	2	DIN 294
Breakaway Pelco base with 10' x 4" Threaded Galvanized Pole	2	CNSTR 289



**EXHIBIT 2**

**SCHEDULE OF COMPENSATION**

**Maintenance Cost \$1645.00 per system per month.**

Period	Number of Systems	Dates	Amount
Year 1*	128	August 2008 to July 2009	\$2,516,850.00
Year 2	136	August 2009 to July 2010	\$2,684,640.00
Year 3	136	August 2010 to July 2011	\$2,684,640.00
Year 4	136	August 2011 to July 2012	\$2,684,640.00
Year 5	136	August 2012 to January 2013	\$1,342,320.00

\*Total number of Systems not under one year warranty.

**Total Maintenance:**

**\$11,913,090.00**

**Support Cost \$2,750.00 per system per month.**

Period	Number of Systems	Dates	Amount
Year 1	136	August 2008 to July 2009	\$4,488,000.00
Year 2	136	August 2009 to July 2010	\$4,488,000.00
Year 3	136	August 2010 to July 2011	\$4,488,000.00
Year 4	136	August 2011 to July 2012	\$4,488,000.00
Year 5	136	August 2012 to January 2013	\$2,244,000.00

**Total Support:**

**\$20,196,000.00**

**TOTAL COMPENSATION**

**\$32,109,090.00**

## OPTIONAL RELOCATION COSTS

### DESCRIPTION OF WORK TO BE COMPLETED AS REQUIRED

#### **Relocate Roadside Cabinet:**

**\$13,500.00**

New cabinet foundation, new quazite and ground rods, new conduit to existing handhole, Remove existing concrete, replace after controller is installed, landscaping if required. Remove the existing cable and install a new cable to new cabinet location. Existing wire may be reused if the location of the new controller is same distance from the equipment. Install new cabinet and terminate.  
Remove existing Cabinet and relocate, remove existing concrete foundation, quazite and ground rods, replace sidewalk squares and landscape if required.

#### **Relocate Flash / Flash Pole:**

**\$6,000.00**

New Pole foundation, new conduit, and wire. Existing wire may be reused if the location of the new controller is same distance from the equipment.  
Remove existing concrete for new pole, replace concrete after foundation is installed, landscaping if required.  
Remove existing flash unit complete and relocate to new foundation.  
Remove existing foundation, replace concrete and landscape if required.  
Includes boring a new conduit to the closest handhole and enclosure post.

#### **Relocate Enclosure / Enclosure Pole:**

**\$6,000.00**

New pole foundation, new conduit, and wire. Existing wire may be reused if the location of the new controller is same distance from the equipment.  
Remove existing concrete for new pole, replace concrete after foundation is installed, landscaping if required.  
Remove existing flash unit complete and relocate to new foundation.  
Remove existing foundation, replace concrete and landscape if required.  
Includes boring a new conduit to the closest handhole and flash unit post.

#### **Installation of Loop Drive:**

**\$1,900.00**

Installation of new loop drive from the pavement to the sidewalk area.  
Removal and replacement of sidewalk square to tie into quanzite.  
New conduit and new Quazite junction box landscaping if required.

#### **Removal and Installation of In-Ground Loops:**

**\$750.00/loop**

Installation of loops; 2 required per lane.  
IMSA #14Awg wire to be used for standard detection loops.  
Up to 4 contiguous lanes can have presence loops installed.

#### **Engineering Fees:**

**\$2,000.00**

Drafting and Utility Coordination



**Based on the Description of Work to be Completed as Required, Cost not to Exceed for Relocation at Current Intersection includes: \$21,900.00**

Cabinet relocation is not included in pricing; cabinet to remain in place.

No American Disability Act (ADA) work included with pricing.

Fees to be absorbed by Redflex Traffic Systems are construction oversight, technician time (set up of new location), communication fees (install & coordination) & 5 day test process.

**Based on the Description of Work to be Completed as Required, Cost not to Exceed for Relocation of "Standard" Installation (2 approaches) at New Intersection includes: \$45,000.00**

No American Disability Act (ADA) work included with pricing.

Fees to be absorbed by Redflex Traffic Systems are construction oversight, technician time (set up of new location), communication fees (install & coordination) & 5 day test process.

**EXHIBIT 3**

**SPECIAL CONDITIONS REGARDING  
MBE/WBE COMMITMENT AND SCHEDULES**

**SPECIAL CONDITION REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND  
WOMEN BUSINESS ENTERPRISE COMMITMENT  
(MBE/WBE Professional Services)**

**I. Policy and Terms**

- A. It is the policy of the City of Chicago that Local Businesses certified as Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in accordance with Section 2-92-420 et seq. of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses, and all other Regulations promulgated under the aforementioned sections of the Municipal Code shall have the maximum opportunity to participate fully in the performance of this agreement. Therefore, the contractor shall not discriminate against any person or business on the basis of race, color, national origin or sex, and shall take affirmative action to ensure that women and minority businesses shall have the maximum opportunity to compete for and perform subcontracts for supplies or services.

**The Chief Procurement Officer has established a goal of awarding not less than 25% of the annual dollar value of all non-construction contracts to certified MBEs and 5% of the annual dollar value of all non-construction contracts to certified WBEs.**

- B. Failure to carry out the commitments and policies set forth herein shall constitute a material breach of the contract and may result in the termination of the contract or such remedy as the City of Chicago deems appropriate.
- C. Accordingly, the contractor commits to expend at least the following percentages of the total contract price (inclusive of any and all modifications and amendments), if awarded, for contract participation by MBEs and WBEs:
- MBE Contract Goal: 25.0  
WBE Contract Goal: 5.0
- D. The commitment is met by the contractor's status as an MBE or WBE, or by a joint venture with one or more certified MBEs or WBEs that will perform work on the project, or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the contract from one or more MBEs or WBEs, or by the indirect participation of MBEs or WBEs in other aspects of the contractor's business (but no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all contracts of such contractor), or by any combination of the foregoing.

**Note: MBE/WBE participation goals are separate and those businesses certified with the City of Chicago as both an MBE and WBE shall not be credited more than once against a contractor's MBE or WBE commitment in the performance of the contract.**

- E. As noted above, the contractor may meet all or part of this commitment by contracting with MBEs or WBEs for the provision of goods or services not directly related to the performance of this contract. However, in determining the manner of MBE/WBE participation, the contractor shall first consider involvement of MBEs/WBEs as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this contract. In appropriate cases, the Chief Procurement Officer will require the contractor to demonstrate the specific efforts undertaken to involve MBEs and WBEs in direct participation in the performance of this contract.
- F. The contractor also may with prior approval of the Chief Procurement Officer or designee, meet all, or part, of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in private sector projects.

**II. Definitions**

- A. **"Minority Business Enterprise" or "MBE"** means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations.
- B. **"Women Business Enterprise" or "WBE"** means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations.
- C. **"Directory"** means the Directory of Certified "Disadvantaged Business Enterprises," "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the Contract Compliance Administrator. The Directory identifies firms that have been certified as MBEs and WBEs, and includes both the



date of their last certification and the area of specialty in which they have been certified. Contractors are responsible for verifying the current certification status of all proposed MBE and WBE firms.

- D. **"Area of Specialty"** means the description of an MBE or WBE firms business which has been determined by the Chief Procurement Officer to be most reflective of the MBE or WBE firms claimed specialty or expertise. Each MBE/WBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory. Credit toward this contracts MBE and WBE participation goals shall be limited to the participation of firms performing within their Area of Specialty.

**NOTICE:** The Department of Procurement Services does not make any representation concerning the ability of any MBE/WBE to perform work within their Area of Specialty. It is the responsibility of all contractors to determine the capability and capacity of MBEs/WBEs to satisfactorily perform the work proposed.

- E. **"Joint Venture"** means an association of two or more businesses to carry out a single business enterprise for profit, and for which purpose they combine their expertise, property, capital, efforts, skill and knowledge. Contractors may develop joint venture agreements as an instrument to provide participation by MBEs and WBEs in contract work.
- F. **"Contract Compliance Administrator"** means the officer appointed pursuant to Section 2-92-490 of the Municipal Code of Chicago.

### III. Joint Ventures

Bidders may develop joint venture agreements as an instrument to provide participation by certified MBEs and WBEs in contract work. A joint venture seeking to be credited for MBE and/or WBE participation may be formed among MBE and/or WBE firms or between an MBE and/or WBE firm and a non-MBE/WBE firm.

A joint venture is eligible for MBE or WBE credit if the MBE/WBE joint venture partner(s) share in the ownership, control and management responsibilities, risks and profits of the joint venture, and are responsible for a clearly defined portion of work to be performed, in proportion with the MBE and/or WBE ownership percentage.

**Notice:** The City requires that, whenever a joint venture is proposed as the prime contractor, each joint venture partner must separately sign the proposal to the City, in the pages captioned, TO BE EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR, as applicable.

### IV. Counting MBE/WBE Participation Toward the Contract Goals

- A. The inclusion of any MBE or WBE in the contractors MBE/WBE Utilization Plan shall not conclusively establish the contractors right to full MBE/WBE credit for that firms participation in the contract. Once an MBE or WBE is determined to be eligible in accordance with these rules, the total dollar value of the work awarded to the MBE or WBE may be counted toward the MBE or WBE goal except as indicated below:
- B. The Chief Procurement Officer reserves the right to deny or limit MBE/WBE credit to the contractor where any MBE or WBE is found to be engaged in substantial subcontracting or pass-through activities with others. A contractor may count toward its MBE and WBE goals only expenditures to firms that perform a commercially useful function. A firm is considered to perform a commercially useful function when it is responsible for the performance of a clearly defined and distinct element of work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a commercially useful function, the Chief Procurement Officer shall evaluate the amount of work subcontracted, industry practices, and other relevant factors. The amount of MBE/WBE participation credit shall be based upon an analysis by the Chief Procurement Officer of the specific duties that will be performed by the MBE or WBE. Each MBE/WBE shall be expected to actually perform a substantial (i.e., more than eighty-five percent (85%)) portion of the work contemplated for it by any subcontract or agreement through the use of its own employees and equipment.

Requested information may include, without limitation: (1) specific information concerning brokers fees and/or commissions; (2) intended sub-suppliers or other sources of goods and/or services; and (3) specific financial or other risks to be assumed by the MBE/WBE.

- C. MBEs and WBEs who have been certified as "brokers" shall no longer be considered eligible to participate for any

consideration of MBE or WBE credit on contracts awarded by the City in 1993 and thereafter, until further notice.

- D. A joint venture may count toward its MBE or WBE goal the dollar value of the actual work performed by the MBE and/or WBE joint venture partner with its own resources.

**The Chief Procurement Officer reserves the right to disallow goal credit for all, or any portion, of work performed by an MBE or WBE joint venturer based on evaluations of non-compliance with these Special Conditions or any other City, State and/or Federal regulation.**

**V. Regulations Governing Reduction or Waiver of MBE/WBE Goals**

The following Regulations set forth the standards to be used in determining whether or not a reduction or waiver of the MBE/WBE commitment goals of a particular contract is appropriate. If a bidder or proposer determines that it is unable to meet the MBE and/or WBE goal percentage on a City of Chicago contract, a written request for the reduction or waiver of the commitment must be included in the bid or proposal.

The written request for reduction or waiver from the commitment must be in the form of a signed petition for grant of relief from the MBE/WBE percentages submitted on the bidder/proposers letterhead, and must demonstrate that all required efforts as set forth in this document were taken to secure eligible Minority and Women Business Enterprises to meet the commitments. The Chief Procurement Officer or designee shall determine whether the request for the reduction or waiver will be granted.

**Bidders/proposers will be considered responsive to the terms and conditions of these Regulations if a waiver request and proof of notification to an assist agency is submitted at the time of bid/proposal opening.** Once the bids have been opened, the lowest responsive and responsible bidder so deemed by the Chief Procurement Officer or authorized designee will have no more than fourteen (14) calendar days to submit to the Department of Procurement complete documentation that adequately addresses the conditions for waiver described herein. **Proposers responding to Request for Proposals (RFPs) who have been identified as a short listed candidate and/or a prospective awardee will be given a designated time allowance, but no more than fourteen (14) calendar days to submit to the Department of Procurement Services complete documentation that adequately addresses the conditions for waiver described herein. Respondents to Request for Information and or Qualifications (RFI/RFQs) deemed by the Chief Procurement Officer or authorized designee to be the most responsive and responsible shall submit documentation that adequately addresses the conditions for waiver described herein during negotiations.** Failure to submit documentation sufficient to support the waiver request will cause the bid/proposal to be found non-responsive by the Chief Procurement Officer, and the bid/proposal will be rejected. In such cases the remedies to be taken by the Chief Procurement Officer, in his discretion, may include, but are not limited to, forfeiture of bid deposit; negotiating with the next lowest bidder/proposer; or re-advertising the bid/proposal. All bidders/proposers are encouraged to submit all required documents at the time of bid opening to expedite the contract award.

**A. Direct/Indirect Participation**

Each of the following elements must be present in order to determine whether or not such a reduction or waiver is appropriate.

1. The bidder/proposer has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/proposal. Direct participation involves subcontracting a portion of the goods/services specifically required in the bid/proposal. Indirect participation is the subcontracting of goods/services not specifically related to the performance of this contract. Documentation must include but is not necessarily limited to:
  - a. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified MBE/WBE firms;
  - b. A listing of all MBE/WBE firms contacted that includes:
    - (1) Names, address and telephone numbers of MBE/WBE firms solicited;
    - (2) Date and time of contact;
    - (3) Method of contact (written, telephone, facsimile, etc.)

c. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:

- (1) Project identification and location;
- (2) Classification/commodity of work items for which quotations were sought;
- (3) Date, item and location for acceptance of subcontractor bid proposals;
- (4) Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portion of the work and indicates why negotiations were unsuccessful;
- (5) Affirmation that good faith efforts have been demonstrated by choosing subcontracting opportunities likely to achieve MBE/WBE goals by not imposing any limiting conditions which were not mandatory for all subcontractors; or denying the benefits ordinarily conferred on MBE/WBE subcontractors for the type of work that was solicited.

OR

2. Subcontractor participation will be deemed excessively costly when the MBE/WBE subcontractor proposal exceeds the average price quoted by more than twenty percent (20%). In order to establish that a subcontract's quote is excessively costly, the bidder/proposer must provide the following information:

- a. A detailed statement of the work identified for MBE/WBE participation for which the bidder/proposer asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
  - (1) A listing of all potential subcontractors contacted for a quotation on that work item;
  - (2) Prices quoted for the subcontract in question by all such potential subcontractors for that work item.
- b. Other documentation which demonstrates to the satisfaction of the Chief Procurement Officer that the MBE/WBE proposals are excessively costly, even though not in excess of 20% higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
  - (1) The City's estimate for the work under a specific subcontract;
  - (2) The bidder/proposers own estimate for the work under the subcontract;
  - (3) An average of the bona fide prices quoted for the subcontract;
  - (4) Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm.

## **B. Assist Agency Participation**

Every waiver and/or reduction request must include evidence that the bidder/proposer has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community.

The notice requirement of this Section will be satisfied if a bidder/proposer contacts at least one of the associations on Attachment A when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B provides the letter format that a prime contractor may use. Proof of notification prior to bid submittal (e.g. certified mail receipt or facsimile transmittal receipt) will be required for any bid/proposal submitted to be deemed responsive on the date of bid opening. If deemed appropriate, the Chief Procurement Officer or Contract Compliance Officer may contact the assist agency for verification of notification.

## **C. Impracticability**

1. If the Chief Procurement Officer determines that a lesser MBE and/or WBE percentage standard is appropriate with respect to a particular contract subject to competitive bidding prior to the bid solicitations for such contract, bid specifications shall include a statement of such revised standard.
2. The requirements set forth in these Regulations shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable.

This may occur whenever the Chief Procurement Officer determines that for reasons of time, need, industry practices or standards not previously known by the Procurement Department administrator, or such other extreme circumstances as may be deemed appropriate, such a Waiver is in the best interests of the City. This



determination may be made in connection with a particular contract, whether before the contract is let for bid, during the bid or award process, before or during negotiation of the contract, or during the performance of the contract.

For all notifications required to be made by bidders/proposers, in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

## VI. Procedure To Determine Bid Compliance

The following Schedules and described documents constitute the bidders MBE/WBE proposal, and must be submitted in accordance with the guidelines stated:

### A. Schedule C-1: Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier and/or Consultant.

A Schedule C-1 executed by the MBE/WBE (subcontractor or Joint Venture partner) must be submitted by the bidder/proposer for each MBE/WBE included on their Schedule D-1 and must accurately detail the work to be performed by the MBE/WBE and the agreed rates and prices to be paid.

If any fully completed and executed Schedule C-1 is not submitted with the bid/proposal, it must be received by the Contract Administrator within ten (10) days of the bid/proposal opening. (All post bid/proposal submissions must have original signatures on all documents). Failure to submit a completed Schedule C-1 in accordance with this section shall entitle the City to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

### B. Letters of Certification.

A copy of each proposed MBE/WBE firms current Letter of Certification from the City of Chicago must be submitted with the bid/proposal.

All Letters of Certification issued by the City of Chicago include a statement of the MBE/WBE firms Area of Specialty. The MBE/WBE firms scope of work, as detailed by their Schedule C-1, must conform to their stated Area of Specialty.

### C. Joint Venture Agreements.

If the bidders/proposers MBE/WBE proposal includes the participation of an MBE/WBE as joint venture on any tier (either as the bidder/proposer or as a subcontractor), the bidder/proposer must provide a copy of the joint venture agreement.

### D. Schedule D-1: Affidavit of MBE/WBE Goal Implementation Plan

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm.

Except in cases where the bidder/proposer has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section V. herein, the bidder/proposer must commit to the expenditure of a specific dollar amount of participation and a specific percentage of the total award amount for each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, as percentages of the total estimated usage.

All commitments made by the bidders Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the bid opening (see Section VI. A., above), the bidder/proposer may submit a revised Schedule D-1 (executed and notarized) to conform with the Schedule C-1. Except in cases where substantial and documented justification is provided, bidders/proposers will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

## VII. Reporting Requirements During The Term of The Contract

- A. The Contractor shall, not later than thirty (30) days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements shall be made available to the Chief Procurement Officer upon request.



- B. In the case of one time procurements of supplies with either single or multiple deliveries to be performed in less than one year from the date of contract award, an "MBE/WBE Utilization Report," indicating final MBE and WBE payments shall be submitted directly to the Department of Procurement Services so as to assure receipt either at the same time, or before the using Department receives the contractors final invoice. Final payments may be held until the Utilization Reports have been received.  
**NOTICE: Do not submit invoices with "MBE/WBE Utilization Reports."**
- C. During the term of all other contracts, the contractor shall submit regular "MBE/WBE Utilization Reports," a copy of which is attached. The frequency with which these reports are to be submitted will be determined by the Chief Procurement Officer, but in no case will reports be required less often than on a quarterly basis. In the absence of written notice from the Chief Procurement Officer, the contractors first "MBE/WBE Utilization Report" will be due ninety (90) days after the date of contract award, and reports will be due quarterly thereafter.
- D. "MBE/WBE Utilization Reports" are to be submitted directly to: Department of Procurement Services, Office of Vendor Relations, City Hall, Room 403, 121 N. LaSalle Street, Chicago, Illinois 60602.
- E. The Contract Compliance Administrator shall be entitled to examine, on five (5) business days notice, the contractors books and records including without limitation payroll records, tax returns and records, and books of account, to determine whether the contractor is in compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the contract. Such rights are in addition to any other audit inspection rights contained in the contract.

**VIII. MBE/WBE Substitutions**

Changes by the contractor of the commitments earlier certified in the Schedule D-1 are prohibited. In some cases, however, it may become necessary to substitute a new MBE or WBE in order to actually fulfill the MBE/WBE requirements.

The contractor must notify the Chief Procurement Officer immediately in writing of the necessity to reduce or terminate an MBE/WBE subcontract and to utilize a substitute firm for some phase of work. The contractors notification should include the reason for the substitution request, as well as, the name, address and principal official of the substitute MBE/WBE and the dollar value and scope of work of the subcontract. Attached should be all the requisite MBE/WBE affidavits and documents, as enumerated above in Section VI. above, "Procedure to Determine Bid Compliance."

The City will not approve extra payment for escalated costs incurred by the contractor when a substitution of subcontractors becomes necessary for the contractor in order to comply with MBE/WBE contract requirements.

After award of contract, no relief of the MBE/WBE requirements will be granted by the City except in exceptional circumstances. Requests for complete or partial waiver of the MBE/WBE requirements of this contract must be made in writing, stating all details of the request, the circumstances, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the contractor to locate specific firms, solicit MBE/WBE bids, seek assistance from technical assistance agencies, etc., as outlined above in the section V. above, entitled "Regulations Governing Reductions To or Waiver of MBE/WBE Goals".

**IX. Non-Compliance and Damages**

The following constitutes a material breach of this contract and shall entitle the City to declare a default, terminate the contract and exercise those remedies provided for in the contract, at law or in equity:

- (1) failure to satisfy the MBE/WBE percentages required by the contract; and
- (2) the contractor or subcontractor is disqualified as an MBE or WBE, and such status was a factor in contract award, and was misrepresented by the contractor.

In the event that the contractor is determined not to have been involved in any misrepresentation of the status of the disqualified subcontractor or supplier, the contractor shall seek to discharge the disqualified subcontractor or supplier, upon proper notification to the Chief Procurement Officer and/or Contract Compliance Administrator and make every effort to identify and engage a qualified MBE or WBE as its replacement. Furthermore, continued eligibility to enter into future contracting arrangements with the City may be jeopardized as a result of non-compliance. Payments due to the contractor may be withheld until corrective action is taken.

## **X. Arbitration**

- A. In the event that a contractor has not complied with the contractual MBE/WBE percentages in its Schedule D, underutilization of MBEs/WBEs shall entitle the affected MBE/WBE to recover from the contractor damages suffered by such entity as a result of being underutilized; provided, however, that this provision shall not apply to the extent such underutilization occurs pursuant to a waiver or substitution approved by the City. The Ordinance and contracts subject thereto provide that any disputes between the contractor and such affected MBEs/WBEs regarding damages shall be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorneys fees, being recoverable by a prevailing MBE/WBE in accordance with these regulations. This provision is intended for the benefit of any MBE/WBE affected by underutilization and grants such entity specific third party beneficiary rights. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and an MBE/WBE.
- B. An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitative process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, Section X. A. above, within ten (10) days of the contractor receiving notification of the intent to arbitrate from the MBE/WBE the above-described disputes shall be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations shall be initiated by the MBE/WBE filing a demand for arbitration with the AAA; shall be conducted by the AAA; and held in Chicago, Illinois.
- C. All fees of the arbitrator are the initial responsibility of the MBE/WBE; provided, however, that the arbitrator is authorized to award reasonable expenses, including attorneys and arbitrator fees, as damages to a prevailing MBE/WBE.
- D. The MBE/WBE must send the City a copy of the "Demand for Arbitration" within ten (10) days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

## **XI. Record Keeping**

The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs/WBEs, retaining these records for a period of at least three years after final acceptance of the work. Full access to these records shall be granted to the City of Chicago, Federal or State authorities in this project, the U.S. Department of Justice, or any duly authorized representatives thereof.

## **XII. Information Sources**

Small business guaranteed loans; surety bond guarantees; 8 (a) certification:

**U.S. Small Business Administration**  
500 W. Madison Street, Suite 1250  
Chicago, Illinois 60661  
General Information  
(312) 353-4528

**S.B.A. - Bond Guarantee Program  
Surety Bonds**  
500 West Madison, Suite 1250  
Chicago, Illinois 60661  
Attention: Carole Harris  
(312) 353-4003

**S.B.A. - Procurement Assistance**  
500 West Madison, Suite 1250  
Chicago, Illinois 60661  
Attention: Robert P. Murphy, Area Regional Administrator  
(312) 353-7381

Project information and general MBE/WBE information:

**City of Chicago  
Department of Procurement  
Office of Vendor Relations**

City Hall - Room 403  
Chicago, Illinois 60602  
Attention:  
(312) 744-7655

**City of Chicago  
Department of Procurement  
Contract Administration Division**

City Hall - Room 403  
Chicago, Illinois 60602  
Attention: Byron Whittaker  
(312) 744-4926

Directory of Certified Disadvantaged, Minority and Women Business Enterprises:

**City of Chicago  
Department of Procurement  
Office of Business Development - Certification Unit**

City Hall - Room 403  
Chicago, Illinois 60602  
Attention: Lori Lypson  
(312) 744-4909

General Information, Department of Procurement Services: [www.cityofchicago.org/purchasing](http://www.cityofchicago.org/purchasing)

Information on MBE/WBE availability in the manufacturing, sales or supplies, and related fields (direct assistance from 42 regional affiliates located throughout the U.S.):

**National Minority Suppliers  
Development Council, Inc.**

1040 Avenue of the Americas, 2<sup>nd</sup> floor  
New York, New York 10018  
Attention: Harriet R. Michel  
(212) 944-2430

**Chicago Minority Business  
Development Council**

1 East Wacker Drive  
Suite 1200  
Chicago, Illinois 60601  
Attention: Tracye Smith, Executive Director  
Phone #: (312) 755-8880  
Fax #: (312) 755-8890

MBE/WBE Professional Services rev. 10/16/03 (dlh)



**ATTACHMENT A - ASSIST AGENCY**

AFRICAN AMERICAN CONTRACTORS ASSOCIATION  
3901 S. STATE  
CHICAGO, IL 60653  
PHONE #: (312) 915-5960  
FAX #: (312) 567-9919  
WEB: NONE  
EMAIL: [OMARAACA@HOTMAIL.COM](mailto:OMARAACA@HOTMAIL.COM)  
ATTN: OMAR SHAREEF, PRESIDENT

ASIAN AMERICAN ALLIANCE  
222 W. CERMAK ROAD  
SUITE 303  
CHICAGO, IL 60616  
PHONE #: (312) 293-1249  
FAX #: (312) 293-3642  
WEB: [WWW.ASIANAMERICANALLIANCE.COM](http://WWW.ASIANAMERICANALLIANCE.COM)  
EMAIL: [CTAKADA@ASIANAMERICANALLIANCE.COM](mailto:CTAKADA@ASIANAMERICANALLIANCE.COM)  
ATTN: MITCH SCHNEIDER, EXECUTIVE DIRECTOR

ASSOCIATION OF ASIAN CONSTRUCTION  
ENTERPRISES  
333 N. OGDEN AVENUE  
CHICAGO, IL 60607  
PHONE #: (312) 563-0746  
FAX #: (312) 666-1785  
WEB: NONE  
ATTN: PERRY NAKACHI, PRESIDENT

BLACK CONTRACTORS UNITED  
400 W. 76<sup>TH</sup> STREET  
SUITE 200  
CHICAGO, IL 60620  
PHONE #: (773) 483-4000  
FAX #: (773) 483-4150  
WEB: [WWW.BLACKCONTRACTORSUNITED.COM](http://WWW.BLACKCONTRACTORSUNITED.COM)  
ATTN: FLORENCE COX, EXECUTIVE DIRECTOR

CHICAGO MINORITY BUSINESS DEVELOPMENT  
COUNCIL, INC.  
1 EAST WACKER DRIVE  
SUITE 1200  
CHICAGO, IL 60601  
PHONE #: (312) 755-8880  
FAX #: (312) 755-8890  
WEB: [WWW.CMBDC.ORG](http://WWW.CMBDC.ORG)  
ATTN: TRACYE SMITH, EXECUTIVE DIRECTOR

CHICAGO URBAN LEAGUE  
220 S. STATE STREET  
11<sup>TH</sup> FLOOR  
CHICAGO, IL 60604  
PHONE #: (312) 692-0766 EXT. 256  
FAX #: (312) 692-0769  
WEB: [WWW.CUL-CHICAGO.ORG](http://WWW.CUL-CHICAGO.ORG)  
EMAIL: [JARCHIE@CUL-CHICAGO.ORG](mailto:JARCHIE@CUL-CHICAGO.ORG)  
ATTN: JOAN ARCHIE, DIRECTOR OF  
EMPLOYMENT, COUNSELING & TRAINING

COSMOPOLITAN CHAMBER OF COMMERCE  
560 WEST LAKE ST., SUITE 5<sup>TH</sup> FLOOR  
CHICAGO, IL 60661  
PHONE #: (312) 786-0212  
FAX #: (312) 234-9807  
WEB: [WWW.CCHAMBER.ORG](http://WWW.CCHAMBER.ORG)  
ATTN: GLORIA BELL, EXECUTIVE DIRECTOR

FEDERATION OF WOMEN CONTRACTORS  
5650 S. ARCHER AVENUE  
CHICAGO, IL 60638  
PHONE #: (312) 360-1122  
FAX #: (312) 360-0239  
WEB: [WWW.FWCCHICAGO.COM/](http://WWW.FWCCHICAGO.COM/)  
ATTN: BETH DORIA, EXECUTIVE DIRECTOR

HISPANIC AMERICAN CONTRACTORS INDUSTRY  
ASSOCIATION (HACIA)  
901 WEST JACKSON BOULEVARD  
SUITE 205  
CHICAGO, IL 60607  
PHONE #: (312) 666-5910  
FAX #: (312) 666-5692  
WEB: [WWW.HACIAWORKS.ORG](http://WWW.HACIAWORKS.ORG)  
EMAIL: [MAILTO:CSATOY@HACIAWORKS.ORG](mailto:MAILTO:CSATOY@HACIAWORKS.ORG)  
ATTN: CESAR A. SANTOY, EXECUTIVE DIRECTOR

LATIN AMERICAN CHAMBER OF COMMERCE  
3512 WEST FULLERTON AVENUE  
CHICAGO, IL 60647  
PHONE #: (773) 252-5211  
FAX #: (773) 252-7065  
WEB:  
[WWW.LATINAMERICANCHAMBEROFCOMMERCE.COM](http://WWW.LATINAMERICANCHAMBEROFCOMMERCE.COM)  
EMAIL:  
[LACC@LATINAMERICANCHAMBEROFCOMMERCE.COM](mailto:LACC@LATINAMERICANCHAMBEROFCOMMERCE.COM)  
ATTN: ANTHONY GUILLEN, DIRECTOR



ILLINOIS HISPANIC CHAMBER OF COMMERCE  
(FORMERLY MACC)  
33 N. LASALLE STREET  
SUITE 1720  
CHICAGO, IL 60602  
PHONE #: (312) 372-3010  
FAX #: (312) 372-3403  
WEB: [WWW.MACCBUSINESS.COM](http://WWW.MACCBUSINESS.COM)  
ATTN: JUAN OCHOA, PRESIDENT & CEO

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS  
CHICAGO CHAPTER  
330 S. WELLS STREET  
SUITE 1110  
CHICAGO, IL 60606  
PHONE #: (312) 322-0990  
FAX #: (312) 461-0238  
WEB: [WWW.NAWBOCHICAGO.ORG](http://WWW.NAWBOCHICAGO.ORG)  
EMAIL: [INFO@NAWBOCHICAGO.COM](mailto:INFO@NAWBOCHICAGO.COM)  
ATTN: CLAIR GREGOIRE, PRESIDENT

RAINBOW/PUSH COALITION  
930 E. 50<sup>TH</sup> STREET  
CHICAGO, IL 60615  
PHONE #: (773) 256-2728  
FAX #: (773) 256-2751  
WEB: [WWW.RAINBOWPUSH.ORG](http://WWW.RAINBOWPUSH.ORG)  
ATTN: DONNA GAINES, DEPUTY DIRECTOR TRADE BUREAU

SUBURBAN BLACK CONTRACTORS  
848 DODGE AVENUE  
SUITE 347  
EVANSTON, IL 60202  
PHONE #: (847) 359-5356  
FAX #: (847) 359-5367  
WEB: NONE  
ATTN: LARRY BULLOCK, PRESIDENT

SUCCESSFUL INDEPENDENT NETWORK ASSOCIATION (SIN)  
STREET ADDRESS: MAILING ADDRESS:  
2100 W. WASHINGTON P.O. BOX 1113  
CHICAGO, IL 60612 CHICAGO, IL 60608  
PHONE #: (312) 850-1665  
FAX #: (312) 850-1665  
WEB: NONE  
ATTN: DIANE JONES, PRESIDENT  
ATTN: ARNETTE KING, GENERAL MANAGER

TRITON COLLEGE  
SMALL BUSINESS DEVELOPMENT CENTER  
2000 FIFTH AVENUE  
ROOM R-201  
RIVER GROVE, IL 60171  
PHONE #: (708) 456-0300 EXT. 3714  
FAX #: (708) 583-3114  
WEB: [WWW.TRITON.EDU](http://WWW.TRITON.EDU)  
EMAIL: [GBARNES@TRITON.EDU](mailto:GBARNES@TRITON.EDU)  
ATTN: MARY ANN OLSON, DEAN OF WORKFORCE DEVELOPMENT

UPTOWN CENTER HULL HOUSE  
4520 N. BEACON STREET  
CHICAGO, IL 60640  
PHONE #: (773) 561-3500  
FAX #: (773) 561-3507  
WEB: [WWW.HULLHOUSE.ORG/EDU.HTM](http://WWW.HULLHOUSE.ORG/EDU.HTM)  
Email: [MAILTO:CROESCHLEY@HULLHOUSE.ORG](mailto:MAILTO:CROESCHLEY@HULLHOUSE.ORG)  
ATTN: CURT ROESCHLEY, DIRECTOR  
SMALL BUSINESS DEVELOPMENT

WOMEN'S BUSINESS DEVELOPMENT CENTER  
8 SOUTH MICHIGAN AVENUE  
SUITE 400  
CHICAGO, IL 60603  
PHONE #: (312) 853-3477  
FAX #: (312) 853-0145  
WEB: [WWW.WBDC.ORG](http://WWW.WBDC.ORG)  
Email: [MAILTO:HRATNER@WBDC.ORG](mailto:MAILTO:HRATNER@WBDC.ORG)  
ATTN: HEDY RATNER, EXECUTIVE DIRECTOR

THE CHICAGO AREA GAY & LESBIAN CHAMBER OF COMMERCE  
1210 W. ROSEDALE  
CHICAGO, IL 60660  
PHONE #: (773) 303-0167  
FAX #: (773) 303-0168  
WEB: [HTTP://WWW.GLCHAMBER.ORG/](http://WWW.GLCHAMBER.ORG/)  
BARRY A. FLYNN, EXECUTIVE DIRECTOR

rev. 3/17/05

**ATTACHMENT B**  
**(On Bidder/proposer's Letterhead)**

**RETURN RECEIPT REQUESTED**

(Date) \_\_\_\_\_

Re: Specification \_\_\_\_\_

Description: \_\_\_\_\_

(Assist Agency Name and Address)

Dear \_\_\_\_\_:

(Bidder/Proposer) intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due \_\_\_\_\_ advertised specification with the City of Chicago.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged/Minority/Women Business Enterprise contract goal. **Due to the inability to identify an appropriate DBE/MBE/WBE firm certified by the City of Chicago to participate as a subcontractor or joint venture partner, a request for the waiver of the contract goals will be submitted.** If you are aware of such a firm, please contact

\_\_\_\_\_ at

\_\_\_\_\_  
Name of Company Representative  
Address/phone

within (10) ten working days of receipt of this letter.

Under the City of Chicago's MBE/WBE/DBE Ordinance, your agency is entitled to comment upon this waiver request to the City of Chicago. Written comments may be directed within fifteen (15) working days of your receipt of this letter to:

Monica Cardenas, Deputy Procurement Officer  
Department of Procurement Services  
City of Chicago  
121 North La Salle Street, Room 403  
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_

**SCHEDULE B: Affidavit of Joint Venture (MBE/WBE)**

This form need not be submitted if all joint venturers are MBEs and/or WBEs. In such a case, however, a written joint venture agreement among the MBE and WBE venturers must be submitted. In all proposed joint ventures, each MBE and/or WBE venturer must submit a copy of their current Letter of Certification.

All Information Requested by this Schedule must Be Answered in the Spaces Provided. Do Not Refer to Your Joint Venture Agreement Except to Expand on Answers Provided on this Form. If Additional Space Is Required, Additional Sheets May Be Attached.

- I. Name of joint venture: \_\_\_\_\_  
 Address of joint venture: \_\_\_\_\_  
 Phone number of joint venture: \_\_\_\_\_
- II. Identify each non-MBE/WBE venturer(s):  
 Name of Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Contact person for matters concerning MBE/WBE compliance: \_\_\_\_\_
- III. Identify each MBE/WBE venturer(s):  
 Name of Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Contact person for matters concerning MBE/WBE compliance: \_\_\_\_\_
- IV. Describe the role(s) of the MBE and/or WBE venturer(s) in the joint venture: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- V. Attach a copy of the joint venture agreement. In order to demonstrate the MBE and/or WBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the MBE/WBE's own forces; (3) work items to be performed under the supervision of the MBE/WBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.
- VI. Ownership of the Joint Venture.  
 A. What are the percentage(s) of MBE/WBE ownership of the joint venture?  
     MBE/WBE ownership percentage(s) \_\_\_\_\_  
     Non-MBE/WBE ownership percentage(s) \_\_\_\_\_  
 B. Specify MBE/WBE percentages for each of the following (provide narrative descriptions and other detail as applicable):  
 1. Profit and loss sharing: \_\_\_\_\_  
 2. Capital contributions:  
     (a) Dollar amounts of initial contribution: \_\_\_\_\_  
     (b) Dollar amounts of anticipated on-going contributions: \_\_\_\_\_  
 3. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer): \_\_\_\_\_  
     \_\_\_\_\_  
     \_\_\_\_\_  
     \_\_\_\_\_

4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Provide copies of all written agreements between venturers concerning this project.
6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (Indicate any limitations to their authority such as dollar limits and co-signatory requirements.):

- A. Joint venture check signing:

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- B. Authority to enter contracts on behalf of the joint venture:

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- C. Signing, co-signing and/or collateralizing loans:

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- D. Acquisition of lines of credit:

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- E. Acquisition and indemnification of payment and performance bonds:

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- F. Negotiating and signing labor agreements:

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- G. Management of contract performance. (Identify by name and firm only):

1. Supervision of field operations: \_\_\_\_\_
2. Major purchases: \_\_\_\_\_



3. Estimating: \_\_\_\_\_

4. Engineering: \_\_\_\_\_

## VIII. Financial Controls of joint venture:

A. Which firm and/or individual will be responsible for keeping the books of account?

B. Identify the "managing partner," if any, and describe the means and measure of their compensation:

C. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?

## IX. State the approximate number of operative personnel (by trade) needed to perform the joint venture's work under this contract. Indicate whether they will be employees of the non-MBE/WBE firm, the MBE/WBE firm, or the joint venture.

Trade	Non-MBE/WBE Firm (Number)	MBE/WBE (Number)	Joint Venture (Number)

If any personnel proposed for this project will be employees of the joint venture:A. Are any proposed joint venture employees currently employed by either venturer?  
Currently employed by non-MBE/WBE (number) \_\_\_\_\_ Employed by MBE/WBE \_\_\_\_\_

B. Identify by name and firm the individual who will be responsible for hiring joint venture employees:

C. Which venturer will be responsible for the preparation of joint venture payrolls:

## X. Please state any material facts of additional information pertinent to the control and structure of this joint venture.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.

Note: If, after filing this Schedule B and before the completion on the joint venture's work on the project, there is any change in the information submitted, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

\_\_\_\_\_  
Name of MBE/WBE Partner Firm

\_\_\_\_\_  
Name of Non-MBE/WBE Partner Firm

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Name and Title of Affiant

\_\_\_\_\_  
Name and Title of Affiant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

On this \_ day of \_\_\_\_\_, 20 \_\_\_\_, the above-signed officers

\_\_\_\_\_  
(names of affiants)

personally appeared and, known to me be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

**SCHEDULE C-1****Letter of Intent from MBE/WBE to Perform  
as Subcontractor, Supplier and/or Consultant**Name of Project/Contract: 18031  
Specification Number: 65611From CITY LIGHTS  
(Name of MBE/WBE Firm)MBE: Yes ☒ No ☐  
WBE: Yes ☐ No ☐To: RED FLEX TRAFFIC and the City of Chicago:  
(Name of Prime Contractor - Bidder/Proposer)

The undersigned intends to perform work in connection with the above projects as a:

☐ Sole Proprietor ☒ Corporation  
☐ Partnership ☐ Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of \_\_\_\_\_ to \_\_\_\_\_ for a period of five years.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

MAINTENANCE, RELOCATIONS, KNOCK DOWN SUPPORT  
AND CONSTRUCTION SERVICES

The above described performance is offered for the following price and described terms of payment:

\$1,650,000 per year

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.

  
(Signature of Owner or Authorized Agent)Juan Candelaria/President

Name /Title (Print)

July 18, 2008

Date

773-626-9162

Phone

9993 Virginia Avenue  
Chicago Ridge, IL 60415

Phone: 773-626-9162

Fax: 773-626-5415 or 773-626-8310

Mr. Joseph Chan  
Department of Procurement Services  
City of Chicago

September 24, 2008

**Re:                    Specification #                    65611**  
**Redflex Maintenance**  
**City Lights, Ltd. Job #                    8190**

Mr. Chan:

I am in receipt to your email requesting additional information regarding City Lights participation on the above referenced project. This project entails several activities which fall both in our realm of expertise and the jurisdiction of the unions we represent, the International Brotherhood of Electrical Workers (IBEW), Local 9 & Local 134.

Below you will find the work that we are completing for this project.

**Maintenance:**

Testing and repair of incoming power from Commonwealth Edison  
Testing and repair of Phasing for the traffic signals  
Testing and repair of grounding at all locations  
Verify the connection of electrical cable to various pieces of equipment  
Manually activating the camera equipment and verifying the proper operation  
Verify the operation of Detector Loops and seal the loops if the cables are exposed  
Paint and caulk electrical equipment as required

**Knock Downs, Relocations & Construction Services:**

Installing and Removal of the equipment foundations  
Installing and Removal of electrical cable  
Installing and Relocation camera equipment  
Installation of electrical conduit for electrical cable  
Connection of the cable to the electrical source either Com-Ed or BOE  
Replace damaged loop detectors, Install new loops if equipment is relocated

I hope the above information clarifies our scope of work. IBEW - Local 9 and City Lights, Ltd. are confident that the above work falls under classification of Electrical Contractors. If you would like us to change the description of the C1 please let me know and we will do so.

Feel free to contact me at 773-626-9162/Ext. 119 if you have any questions.

Sincerely,  
**CITY LIGHTS, LTD.**

John Candelaria  
Vice President





City of Chicago  
Richard M. Daley, Mayor

Department of  
Procurement Services

City Hall, Room 403  
121 North LaSalle Street  
Chicago, Illinois 60602  
(312) 744-4900  
(312) 744-2949 (TTY)  
<http://www.cityofchicago.org>

November 28, 2007

Juan Candelaria  
**City Lights, Ltd.**  
5261 W. Harrison Avenue  
Chicago, Illinois 60644

**Annual Certificate Expires:**  
**Vendor Number:**

**March 1, 2009**  
**1038619**

Dear Mr. Candelaria:

We are pleased to inform you that **City Lights, Ltd.** has been certified as a **MBE** by the City of Chicago. This **MBE** certification is valid until **March 1, 2013**; however your firm must be revalidated annually. Your firms' next annual validation is required by **March 1, 2009**.

As a condition of continued certification during this five year period, you must file a No-Change Affidavit **within 60 days prior** to the date of expiration. Failure to file this Affidavit will result in the termination of your certification. **Please note that you must include a copy of your most current Federal Corporate Tax Return.** You must also notify the City of Chicago of any changes in ownership or control of your firm or any other matters or facts affecting your firm's eligibility for certification.

The City may commence action to remove your firm's eligibility if you fail to notify us of any changes of facts affecting your firm's certification or if your firm otherwise fails to cooperate with the City in any inquiry or investigation. Removal of eligibility procedures may also be commenced if your firm is found to be involved in bidding or contractual irregularities.

Your firm's name will be listed in the City's Directory of Minority Business Enterprises and Women Business Enterprises in the specialty area(s) of:

#### **Electrical Contractor**

Your firm's participation on City contracts will be credited only toward **MBE** goals in your area(s) of specialty. While your participation on City contracts is not limited to your specialty, credit toward **MBE** goals will be given only for work done in the specialty category.

Thank you for your continued interest in the City's Minority and Women Business Enterprise Programs.

Sincerely,

Mark J. Hands  
Managing Deputy Procurement Officer



**SCHEDULE C-1**  
**Letter of Intent from MBE/WBE to Perform**  
**as Subcontractor, Supplier and/or Consultant**

Name of Project/Contract: 18031  
 Specification Number: 65611

From: BIGANE PAVING CO  
(Name of MBE/WBE Firm)

MBE: Yes        No X  
 WBE: Yes X No       

To: Red Flex and the City of Chicago:  
(Name of Prime Contractor - Bidder/Proposer)

The undersigned intends to perform work in connection with the above projects as a:

       Sole Proprietor X Corporation  
       Partnership        Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of July 3, 2007 to Dec 1, 2008 for a period of five years.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

Asphalt Milling & PAVING

The above described performance is offered for the following price and described terms of payment:

\$ 50,000.00 PER YEAR

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.

Anne Wilson  
(Signature of Owner or Authorized Agent)  
Anne Bigane Wilson  
Name/Title (Print)  
7-17-08  
Date  
312-738-0600  
Phone



City of Chicago  
Richard M. Daley, Mayor

Department of  
Procurement Services

Barbara A. Lumpkin  
Chief Procurement Officer

City Hall, Room 403  
121 North LaSalle Street  
Chicago, Illinois 60602  
(312) 744-4900  
(312) 744-2949 (TTY)  
<http://www.cityofchicago.org>

RECEIVED

JUL 10 2007

July 3, 2007

Anne Bigane Wilson, President  
Bigane Paving Company  
935 W. Chestnut Street  
Chicago, IL 60622

Annual Certificate Expires:  
Vendor Number:

December 1, 2008  
1008771

Dear Ms. Wilson:

We are pleased to inform you that Bigane Paving Company, has been certified as a **WBE** by the City of Chicago. This **WBE** certification is valid until **December 1, 2012**; however your firm must be re-validated annually. Your firm's next annual validation is required by **December 1, 2008.**

As a condition of continued certification during this five year period, you must file a No-Change Affidavit **within 60 days prior** to the date of expiration. Failure to file this Affidavit will result in the termination of your certification. **Please note that you must include a copy of your most current Federal Corporate Tax Return.** You must also notify the City of Chicago of any changes in ownership or control of your firm or any other matters or facts affecting your firm's eligibility for certification.

The City may commence action to remove your firm's eligibility if you fail to notify us of any changes of facts affecting your firm's certification or if your firm otherwise fails to cooperate with the City in any inquiry or investigation. Removal of eligibility procedures may also be commenced if your firm is found to be involved in bidding or contractual irregularities.

Your firm's name will be listed in the City's Directory of Minority Business Enterprises and Women Business Enterprises in the specialty area(s) of:

**Street and Highway Construction; Excavation; Grading and Asphalt (Exclusive of Elevated Highways); Miscellaneous Concrete (Exclusive of Public Walkways).**

Your firm's participation on City contracts will be credited only toward **WBE** goals in your area(s) of specialty. While your participation on City contracts is not limited to your specialty, credit toward **WBE** goals will be given only for work done in the specialty category.

Thank you for your continued interest in the City's Minority and Women Business Enterprise Programs.

Sincerely,

Mark Hands  
Managing Deputy Procurement Officer

MH/ckr



07-17-09:01:4 JPM:

BPS STAFFING

**SCHEDULE C-1****Letter of Intent from MBE/WBE to Perform  
as Subcontractor, Supplier and/or Consultant**Name of Project/Contract: 18031  
Specification Number: 65611From: BPS STAFFING, INC.  
(Name of MBE/WBE Firm)MBE: Yes ☒ No ☐  
WBE: Yes ☒ No ☐To: BedFlex Traffic Systems and the City of Chicago:  
(Name of Prime Contractor - Bidder/Proposer)

The undersigned intends to perform work in connection with the above projects as a:

☐ Sole Proprietor  
☐ Partnership☒ Corporation  
☐ Joint VentureThe MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of April 2007 to April 2012 for a period of five years.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

Temporary Office Personnel

The above described performance is offered for the following price and described terms of payment:

\$ 310 000.00 PER YEAR

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.

Tamera Buckhanan  
 (Signature of Owner or Authorized Agent)  
TAMERA BUCKHANAN  
 Name Print  
7-17-08  
 Date  
(312) 920-6710  
 Phone





City of Chicago  
Richard M. Daley, Mayor

Department of  
Procurement Services

Montel M. Gayles  
Chief Procurement Officer

City Hall, Room 403  
121 North LaSalle Street  
Chicago, Illinois 60602  
(312) 744-4900  
(312) 744-2949 (TTY)

<http://www.cityofchicago.org>

March 31, 2008

Tamera Buckhanan  
**BPS Staffing, Inc.**  
200 North LaSalle Street  
Chicago, IL 60601

**Annual Certificate Expires:**  
**Vendor Number:**

**April 1, 2009**  
**1006689**

Dear Ms. Buckhanan:

Congratulations on your continued eligibility for certification as a **MBE/WBE** by the City of Chicago. This **MBE/WBE** certification is valid until **April 2012**; however your firm must be re-validated annually. Your firm's next annual validation is required by **April 1, 2009**.

As a condition of continued certification during this five year period, you must file a No-Change Affidavit **within 60 days prior** to the date of expiration. Failure to file this Affidavit will result in the termination of your certification. **Please note that you must include a copy of your most current Federal Corporate Tax Return.** You must also notify the City of Chicago of any changes in ownership or control of your firm or any other matters or facts affecting your firm's eligibility for certification.

The City may commence action to remove your firm's eligibility if you fail to notify us of any changes of facts affecting your firm's certification or if your firm otherwise fails to cooperate with the City in any inquiry or investigation. Removal of eligibility procedures may also be commenced if your firm is found to be involved in bidding or contractual irregularities.

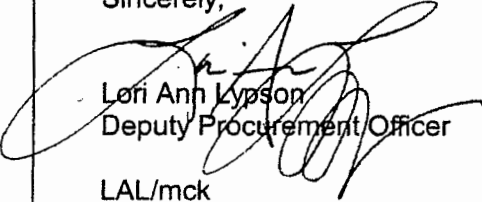
Your firm's name will be listed in the City's Directory of Minority Business Enterprises and Women Business Enterprises in the specialty area(s) of:

**Employment Agency; Temporary Placement; Executive Recruitment**

Your firm's participation on City contracts will be credited only toward **MBE/WBE** goals in your area(s) of specialty. While your participation on City contracts is not limited to your specialty, credit toward **MBE/WBE** goals will be given only for work done in the specialty category.

Thank you for your continued interest in the City's Minority and Women Business Enterprise Programs.

Sincerely,

  
Lori Ann Lyson  
Deputy Procurement Officer

LAL/mck



**Schedule C-1**

**Letter of Intent from MBE/WBE to Perform  
As Subcontractor, Supplier and/or Consultant**

Name of Project/Contract: 18031  
Specification Number: 65611

From: Gandhi and Associates, Inc.  
(Name of MBE/WBE Firm)

MBE: Yes X ; No \_\_\_\_\_  
WBE: Yes \_\_\_\_\_ ; No \_\_\_\_\_

To: Redflex Traffic Systems, Inc. and the City of Chicago:  
(Name of Prime Consultant/Contractor)

The undersigned intends to perform work in connection with the above projects as a:

\_\_\_\_\_ Sole Proprietor  
\_\_\_\_\_ Partnership

X Corporation  
\_\_\_\_\_ Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of March 7, 2008 to March 1, 2009 for a period of one year.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

Engineering and Drafting Services  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above described performance is offered for the following price and described terms of payment:  
\$145,000 per year  
\_\_\_\_\_  
\_\_\_\_\_

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.



(Signature of Owner or Authorized Agents)

P. K. Gandhi, President

Name/Title (Print)

July 18, 2008

Date

(773) 774-5910

Phone



City of Chicago  
Richard M. Daley, Mayor

Department of  
Procurement Services

Montel M. Gayles  
Chief Procurement Officer

City Hall, Room 403  
121 North LaSalle Street  
Chicago, Illinois 60602

(312) 744-4900  
(312) 744-2949 (TTY)

<http://www.cityofchicago.org>

March 7, 2008

P. K. Gandhi, President  
**Gandhi & Associates, Inc.**  
6035 North Northwest Highway, Suite 306  
Chicago, Illinois 60631

**Annual Certificate Expires:**

**March 1, 2009**

**Vendor Number:**

**312900**

Dear Mr. Gandhi:

Congratulations on your continued eligibility for certification as a **MBE** by the City of Chicago. This **MBE** certification is valid until **March 2011**; however your firm must be re-validated annually. Your firm's next annual validation is required by **March 1, 2009**.

As a condition of continued certification during this five year period, you must file a No-Change Affidavit **within 60 days prior** to the date of expiration. Failure to file this Affidavit will result in the termination of your certification. **Please note that you must include a copy of your most current Federal Corporate Tax Return.** You must also notify the City of Chicago of any changes in ownership or control of your firm or any other matters or facts affecting your firm's eligibility for certification.

The City may commence action to remove your firm's eligibility if you fail to notify us of any changes of facts affecting your firm's certification or if your firm otherwise fails to cooperate with the City in any inquiry or investigation. Removal of eligibility procedures may also be commenced if your firm is found to be involved in bidding or contractual irregularities.

Your firm's name will be listed in the City's Directory of Minority Business Enterprises and Women Business Enterprises in the specialty area(s) of:

#### **Professional Engineering Services**

Your firm's participation on City contracts will be credited only toward **MBE** goals in your area(s) of specialty. While your participation on City contracts is not limited to your specialty, credit toward **MBE** goals will be given only for work done in the specialty category.

Thank you for your continued interest in the City's Minority and Women Business Enterprise Programs.

Sincerely,

  
Lori Ann Lypson  
Deputy Procurement Officer

LAL/mck



**SCHEDULE D-1**  
**Affidavit of MBE/WBE Goal Implementation Plan**

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**SCHEDULE D-1**  
**Affidavit of MBE/WBE Goal Implementation Plan**

Contract Name 18031  
Specification No. 65611

State of ILLINOIS

County (City) of COOK (CHICAGO)

I HEREBY DECLARE AND AFFIRM that I am duly authorized representative of:

REFLEX TRAFFIC SYSTEMS  
Name of Bidder/Proposer

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the MBE/WBE goals of this contract.

All MBE/WBE firms included in this plan have been certified as such by the City of Chicago (Letters of Certification Attached).

**I. Direct Participation of MBE/WBE Firms**

(Note: The bidder/proposer shall, in determining the manner of MBE/WBE participation, first consider involvement with MBE/WBE firms as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this contract.)

- A. If bidder/proposer is a certified MBE or WBE firm, attach copy of City of Chicago Letter of Certification. (Certification of the bidder/proposer as a MBE satisfies the MBE goal only. Certification of the bidder/proposer as a WBE satisfies the WBE goal only.)
- B. If bidder/proposer is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach copies of Letters of Certification and a copy of Joint Venture Agreement clearly describing the role of the MBE/WBE firm(s) and its ownership interest in the joint venture.
- C. MBE/WBE Subcontractors/Suppliers/Consultants:

1. Name of MBE/WBE: CITY LIGHTS LTD  
Address: 9993 S. VIRGINIA AVE CHICAGO RIDGE IL 60415  
Contact Person: JOHN CANDLERIA Phone: (773) 626-9162  
Dollar Amount Participation \$ 650,000 yr  
Percent Amount of Participation: 9.06 %  
Schedule C-1 attached? Yes X No          \*

\*(see next page)

**SCHEDULE D-1**  
**Affidavit of MBE/WBE Goal Implementation Plan**

2. Name of MBE/WBE: GANDHI AND ASSOC  
 Address: 6035 N NORTHWEST Hwy STE 306 CHICAGO IL 60631  
 Contact Person: PK GANDHI Phone: (773) 774-5910  
 Dollar Amount Participation \$ 50,000 yr  
 Percent Amount of Participation: 0.70 %  
 Schedule C-1 attached? Yes X No \_\_\_\_\_ \*
3. Name of MBE/WBE: BPS STAFFING  
 Address: 200 N LaSalle St STE 1900 CHICAGO IL 60601  
 Contact Person: TAMERRA Buckhanan Phone: (312) 920-6711  
 Dollar Amount Participation \$ 310,000 yr  
 Percent Amount of Participation: 4.32 %  
 Schedule C-1 attached? Yes X No \_\_\_\_\_ \*
4. Name of MBE/WBE: BIGANE PAVING  
 Address: 935 W. CHESTNUT ST CHICAGO IL 60622  
 Contact Person: ANNE WILSON Phone: (312) 738-0600  
 Dollar Amount Participation \$ 50,000 yr  
 Percent Amount of Participation: 0.70 %  
 Schedule C-1 attached? Yes X No \_\_\_\_\_ \*
5. Name of MBE/WBE: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Dollar Amount Participation \$ \_\_\_\_\_  
 Percent Amount of Participation: \_\_\_\_\_ %  
 Schedule C-1 attached? Yes \_\_\_\_\_ No \_\_\_\_\_ \*
6. Attach additional sheets as needed.

\* All Schedule C-1s and Letters of Certification not submitted with bid/proposal must be submitted so as to assure receipt by the Contract Administrator within three (3) business days after bid opening (or proposal due date.)

**SCHEDULE D-1****Affidavit of MBE/WBE Goal Implementation Plan****II. Indirect Participation of MBE/WBE Firms**

(Note: This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, contractor will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.)

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

- A. Name of MBE/WBE: CITY LIGHTS LTD  
 Address: 9993 S. VIRGINIA AVE CHICAGO ILLINOIS 60415  
 Contact Person: JOHN CANDELERIA Phone: (773) 626-9162  
 Dollar Amount Participation \$ 1,000,000 yr  
 Percent Amount of Participation: 13.94 %  
 Schedule C-1 attached? Yes X No \_\_\_\_\_ \*
- B. Name of MBE/WBE: GAUNDHI AND ASSOC  
 Address: 6035 N NORTHWEST Hwy STE 306 CHICAGO IL 60631  
 Contact Person: PK GAUNDHI Phone: (773) 774-5910  
 Dollar Amount Participation \$ 75,000 yr  
 Percent Amount of Participation: 1.320 %  
 Schedule C-1 attached? Yes X No \_\_\_\_\_ \*
- C. Name of MBE/WBE: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Dollar Amount Participation \$ \_\_\_\_\_  
 Percent Amount of Participation: \_\_\_\_\_ %  
 Schedule C-1 attached? Yes \_\_\_\_\_ No \_\_\_\_\_ \*
- D. Name of MBE/WBE: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Dollar Amount Participation \$ \_\_\_\_\_  
 Percent Amount of Participation: \_\_\_\_\_ %  
 Schedule C-1 attached? Yes \_\_\_\_\_ No \_\_\_\_\_ \*
- E. Attach additional sheets as needed.

\*

All Schedule C-1s and Letters of Certification not submitted with bid/proposal must be submitted so as to assure receipt by the Contract Administrator within three (3) business days after bid opening (or proposal due date).

**SCHEDULE D-1**  
**Affidavit of MBE/WBE Goal Implementation Plan**

**III. Summary of MBE/WBE Proposal:****A. MBE Proposal****1. MBE Direct Participation (from Section I.)**

MBE Firm Name	Dollar Amount	Percent Amount
CITY LIGHTS LTD	\$ 650,000 yr	9.06%
GANDHI AND ASSOC	\$ 50,000 yr	.70%
	\$	%
	\$	%
<b>Total Direct MBE Participation</b>	<b>\$ 700,000 yr</b>	<b>9.76%</b>

**2. MBE Indirect Participation (from Section II.)**

MBE Firm Name	Dollar Amount	Percent Amount
CITY LIGHTS LTD	\$ 1,000,000 yr	13.94%
GANDHI AND ASSOC	\$ 95,000 yr	1.32%
	\$	%
	\$	%
<b>Total Indirect MBE Participation</b>	<b>\$ 1,950,000</b>	<b>15.27%</b>

**B. WBE Proposal****1. WBE Direct Participation (from Section I.)**

WBE Firm Name	Dollar Amount	Percent Amount
BPS STAFFING	\$ 310,000 yr	4.32%
BIGANE PAVING	\$ 50,000 yr	.70%
	\$	%
	\$	%
<b>Total Direct WBE Participation</b>	<b>\$ 360,000 yr</b>	<b>5.02%</b>

**2. WBE Indirect Participation (from Section II)**

WBE Firm Name	Dollar Amount	Percent Amount
	\$	%
	\$	%
	\$	%
	\$	%
<b>Total Indirect WBE Participation</b>	<b>\$</b>	



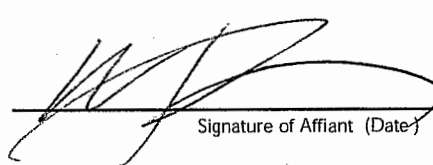
**SCHEDULE D-1**  
**Affidavit of MBE/WBE Goal Implementation Plan**

To the best of my knowledge, information and belief, the facts and representations contained in this Schedule are true, and no material facts have been omitted.

The contractor designates the following person as their MBE/WBE Liaison Officer:

Name: William Braden Phone Number: (312) 327-1920

I do solemnly declare and affirm under penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

 7/18/08  
Signature of Affiant (Date)

State of ILLINOIS

County of COOK

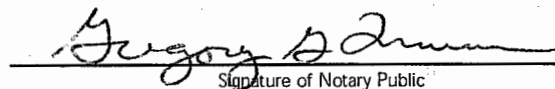
This instrument was acknowledged before me on July 18, 2008 (date)

by GREGORY G. FURMAN  
as NOTARY PUBLIC - IL  
of N/A

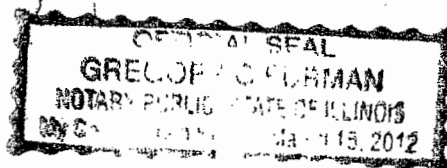
(name /s of person/s)

(type of authority, e.g., officer, trustee, etc.)

(name of party on behalf of whom instrument was executed).

  
Signature of Notary Public

(Seal)



**MBE/WBE UTILIZATION REPORT**

Utilization Report No. \_\_\_\_\_ Specification No. \_\_\_\_\_

Contract No. \_\_\_\_\_

Project Name: \_\_\_\_\_

STATE OF: \_\_\_\_\_)

COUNTY (CITY) OF: \_\_\_\_\_)

In connection with the above-captioned contract:

I HEREBY DECLARE AND AFFIRM that I am the \_\_\_\_\_  
(Title - Print or Type)and duly authorized representative of \_\_\_\_\_  
(Name of Prime Consultant/Contractor - Print or Type)\_\_\_\_\_  
(Address of Prime Consultant/Contractor)(\_\_\_\_\_) \_\_\_\_\_  
(Phone)

and that the following Minority and Women Business Enterprises have been contracted with, and have furnished, or are furnishing and preparing materials for, and rendering services stated in the contract agreement.

The following Schedule accurately reflects the value of each MBE/WBE sub-agreement and the amounts of money paid to each to date.

MBE/WBE FIRM NAME	GOODS/SERVICES PROVIDED	AMOUNT OF CONTRACT	AMOUNT PAID TO-DATE
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

Total MBE: \$ \_\_\_\_\_

Total WBE: \$ \_\_\_\_\_

MBE/WBE UTILIZATION REPORT

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

Name of Contractor: \_\_\_\_\_  
(Print or Type)

Signature: \_\_\_\_\_  
(Signature of affiant)

Name of Affiant: \_\_\_\_\_  
(Print or Type)

Date: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County (City) of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (name/s of person/s)

as \_\_\_\_\_ (type of authority, e.g., officer, trustee, etc.)

of \_\_\_\_\_ (name of party on behalf of whom instrument was executed).

\_\_\_\_\_  
Signature of Notary Public

(Seal)

**EXHIBIT 5**

**INSURANCE REQUIREMENTS AND  
EVIDENCE OF INSURANCE**



**INSURANCE REQUIREMENTS**

**Office of Emergency Management and  
Communications (OEMC)**

**Reflex Traffic System Maintenance & Operations**

The Contractor must provide and maintain at Contractor's own expense, until Agreement completion and during the time period following completion if Contractor is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

**A. INSURANCE TO BE PROVIDED**

1) **Workers Compensation and Employers Liability**

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

2) **Commercial General Liability** (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

3) **Automobile Liability** (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

4) **Errors & Omissions/Professional Liability**

When any system technicians, engineers, or data processing EDP professional including but not limited to Software Designers, Computer Programmers, Electronic Data Processors or other professional Consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. Coverage must include but not limited to performance of or failure to perform EDP, performance of or failure to perform other computer services, and failure of software product to perform the function for the purpose intended. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claim-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

5) Valuable Papers

When any plans, designs, drawings, specifications, media, data, books, audit reports, records and other documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

6) Property

The Contractor is responsible for all loss or damage to City property including but not limited to parts, equipment, materials or supplies of Redflex Traffic System Equipment at full replacement cost during maintenance, repairs or services while in the care, custody, and control of Contractor or loss to any other City property as a result of the Contract.

Contractor is responsible for all loss or damage to personal property (including but not limited to materials, equipments, tools and supplies), owned, used, leased or rented by Contractor.

**B. ADDITIONAL REQUIREMENTS**

The Contractor must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 403, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to execution of Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

The insurance must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Contractor.

The Contractor hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Contractor under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Contractor unless otherwise specified in this Agreement.

If Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Agreement to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

<b>ACORD</b>		<b>CERTIFICATE OF LIABILITY INSURANCE</b>		OP ID SA REDFL-1	DATE (MM/DD/YYYY) 09/25/08
<b>PRODUCER</b> California Insurance Center CA Lic. # 0423393 3697 Mt. Diablo Blvd., #300 Lafayette CA 94549 Phone: 925-299-1112 Fax: 925-299-0328			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW		
<b>INSURED</b>  Redflex Traffic Systems, Inc. 23751 N. 23rd Avenue Ste 150 Phoenix AZ 85085-1854			<b>INSURERS AFFORDING COVERAGE</b>		<b>NAIC #</b>
			INSURER A: National Fire Ins of Hartford		
			INSURER B: Continental Insurance Co.		35289
			INSURER C: American Cas. Co. of Reading		
			INSURER D: Lloyds of London		
			INSURER E:		

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	X	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  <input checked="" type="checkbox"/> <b>Empl Benefits Lia</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	2088537791	03/15/08	03/15/09	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMPI/OP AGG	\$ 2,000,000
							<b>Emp Ben.</b>	1,000,000
C			<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	2088537757	03/15/08	03/15/09	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
			<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
							OTHER THAN AUTO ONLY: EA ACC	\$
							AGG	\$
B			<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10,000	2097617177	03/15/08	03/15/09	EACH OCCURRENCE	\$ 19,000,000
							AGGREGATE	\$ 19,000,000
								\$
								\$
								\$
C			<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	2088537872 2088537922 CA	05/01/08 05/01/08	05/01/09 05/01/09	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT	\$ 1000000
							E.L. DISEASE - EA EMPLOYEE	\$ 1000000
							E.L. DISEASE - POLICY LIMIT	\$ 1000000
D			<b>Errors &amp; Omissions</b> <b>Cyberliability</b>	B0738SP000320C CLAIMS MADE	03/15/08	03/15/09	E&O/Cyber Ded	2,000,000 35,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

Per G140331A City of Chicago, its employees, elected officials, agents and representatives are additional insured per contract with insured. GL, Auto & WC waiver applies. Coverage is primary & non-contributory.

**CERTIFICATE HOLDER**

CITCHI2

City of Chicago  
 Dept. of Procurement Services  
 City Hall, Rm. 403  
 121 North LaSalle  
 Chicago IL 60602

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# NOTEPAD:

INSURED'S NAME Redflex Traffic Systems, Inc.

REDFL-1

PAGE 3

OPID SA

DATE 09/25/08

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in the General Liability coverage part to the first Named Insured, the General Liability insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

Valuable Papers: Policy Number 2088537791 Effective 3/15/08 to 3/15/09  
Limit: \$250,000  
Deductible: \$5,000

Installation: Policy Number 2088537791 Effective 3/15/08 to 3/15/09  
Limit: \$1,000,000 per occurrence  
Deductible: \$25,000

Third Party Fidelity: Travelers Insurance: Policy Number 104861759  
Effective 12/22/07 to 12/22/08 Limit: \$500,000 per claim

Stop Gap coverage for WA & OH incl on general liability policy 2088537791

\* Except 10 Days in the event of cancellation for non-payment of premium.

## EXHIBIT 6

### CONTRACTUAL REQUIREMENTS RELATED TO HIPAA

The terms below that are capitalized and in bold have the same meanings as set forth in the Health Insurance Portability and Accountability Act. See 45 CFR parts 160 and 164.

1. Consultant must not use or further disclose Protected Health Information ("PHI") other than as permitted or required by this Agreement or as Required by Law. (<http://www.hhs.gov/ocr/hipaa/>)
2. Consultant must use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for in this Agreement.
3. Consultant must mitigate to the extent practicable any harmful effect that is known to Consultant of a use or disclosure of PHI by Consultant in violation of the requirements of this Agreement.
4. Consultant must report any use or disclosure of the PHI not provided for by this Agreement to the City.
5. Consultant must ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Consultant on behalf of the City agrees to the same restrictions and conditions that apply through this Agreement to Consultant with respect to such information.
6. If the Consultant has PHI in a Designated Record Set then Consultant must provide access, at the request of the City, and in the time and manner designated by the City, to PHI in a Designated Record Set, to City or, as directed by City, to an Individual in order to meet the requirements under 45 CFR 164.524.
7. If the Consultant has PHI in a Designated Record Set then Consultant must make any amendments to PHI in a Designated Record Set that the City directs or agrees to pursuant to 45 CFR 164.526 at the request of City or an Individual, and in the time and manner designated by City.
8. Consultant must make internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Consultant on behalf of, City available to the City, or at the request of the City to the Secretary, in a time and manner designated by the City or the Secretary, for purposes of the Secretary determining City's compliance with the Privacy Rule.
9. Consultant must document the disclosure of PHI and information relating to such disclosures as would be required for City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
10. Consultant must provide to City or an Individual, in time and manner designated by City, information collected which relates to the disclosure of PHI, to permit City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

11. Consultant must either return all PHI to the City or destroy it, at the City's option, upon termination or expiration of this Agreement.
12. Consultant must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic health information that it creates, receives, maintains, or transmits on behalf of the City as required by 45 CFR part 164.
13. Consultant must ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it.
14. Consultant must report to the City any security incident of which it becomes aware.



**EXHIBIT 7**

**LIST OF KEY PERSONNEL**

**Name:**

William Braden

Robert Wagner

Gregory Furman

**Title:**

Director of Operations

Program Director

Regional Operations Manager

**EXHIBIT 8**

**ADDITIONAL PROVISIONS RELATING TO  
PUBLIC WORKS AND CONSTRUCTION PROJECTS**

**Exhibit 8**  
**Additional Provisions Relating to Public Works and Construction Projects**  
(Revised January 12, 2006)

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**Exhibit 8****Additional Provisions Relating to Public Works and Construction Projects**

(Revised January 12, 2006)

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## **Exhibit 8**

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(Revised January 12, 2006)

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**Exhibit 8**  
**Additional Provisions Relating to Public Works and Construction Projects**  
(Revised January 12, 2006)

**I. GENERAL PROVISIONS**

**A. Acronyms**

"AASHTO" - American Association of State Highway and Transportation Officials

"ACI" - American Concrete Institute

"AED" - Associated Equipment Distributors

"AISC" - American Institute of Steel Construction

"ANSI" - American National Standards Institute

"ASME" - American Society of Mechanical Engineers

"ASTM" - American Society for Testing and Materials

"CPM" - Critical Path Method (See, XI "Schedule," and also Section XI.B.2.)

"CTA" - Chicago Transit Authority

"EDS" - See Section XXII.H.

"FEPC" - Fair Employment Practices Commission

"IDOT" - Illinois Department of Transportation.

"NEC" - National Electric Code

"NEMA" - National Electrical Manufacturer's Association

"NFPA" - National Fire Protection Association

"OSHA" - U.S. Occupational Safety and Health Administration

"SSRBC" - IDOT Standard Specifications For Road and Bridge Construction issued by IDOT, as amended from time to time. See: <http://www.dot.state.il.us/desenv/hwyspecs.html>.

**B. Definitions**

1. "Architect/Engineer" means the person designated by the Commissioner to provide the Contract drawings and Detailed Specifications for the Work you are to perform.
2. "Business day" means Monday through Friday, unless an officially designated City holiday falls on one of those days. By contrast, see "Day" I.B.18 and "Working Day" I.B.49.
3. "Chief Procurement Officer" means the Chief Procurement Officer for the City and any representative duly authorized in writing to act on his/her behalf.
4. "City" means the City of Chicago.
5. "City Engineer" means Chief Engineer of the corresponding Bureau of the Department Contract and any representative duly authorized in writing to act on his behalf.
6. "City Forester" means the Commissioner of the Department of Streets and Sanitation or his designated representative.
7. "Commissioner" means the head of the Department and any representative duly authorized in writing to act on his behalf.
8. "Comptroller" means City Comptroller or his designated representative.
9. "Construction Manager" means the person designated by the Commissioner to oversee construction of the Project.
10. "Consultant(s)" refers to the person, firm or corporation awarded a contract by the City to provide professional architectural or engineering design services or construction supervision for the Project.

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11. "Contract" means this Contract, including your bid proposal (as accepted by the City), the City's bid specification, which includes Books 1, 2, and 3, plans and drawings, addenda, all exhibits and schedules that are attached to it and documents incorporated in it by reference; fully executed performance and payment bond(s); and all amendments, modifications, or revisions made from time to time in accordance with its terms.
12. "Contract Completion Date" is the date, determined by the Commissioner, on which the Project is to reach Substantial Completion. The Contract Completion Date will be determined based on the duration for the Project set by the Contract as adjusted by any Contract Modifications that extend or reduce the duration of the Project.
13. "Contract Modification" means a written modification of the terms and conditions of this Contract, signed by you, the Chief Procurement Officer, the Mayor, and the Comptroller.
14. "Contract Price" is defined in Section XIII.A.
15. "Contract Time" is the duration of the Work from when the Work is required to begin until the scheduled date for Substantial Completion, including approved time extensions. See I.B.47.
16. "Contractor" or "you" means the entity that is awarded this Contract.
17. "Corporation Counsel" means the head of the City's Department of Law and any Assistant Corporation Counsel duly authorized to act on the Corporation Counsel's behalf.
18. "Day" means calendar day, unless otherwise stated. By contrast, see "Business Day" I.B.42 and "Working Day." I.B.49.
19. "Department" means the City Department identified on the cover of this Book 1 of this Contract.
20. "Detailed Specifications" means the written requirements for materials and equipment to be used in the Work, including any plans or drawings and standards of performance for the Work, which are set forth in Book 3 or incorporated in it by reference.
21. "Engineer" means the Commissioner of the Department or any other person designated by him. See also, I.B.7.
22. "Environmental Laws" means all applicable federal, State, and local laws, ordinances, rules, regulations, and executive orders pertaining to environmental matters.
23. "Equipment" means all machinery and equipment, together with the necessary supplies for upkeep and maintenance, and all tools and apparatus necessary for the proper and acceptable completion of the Work.
24. "Field Order" means the written order to you, signed by the Commissioner, unilaterally directing changes in the Work or the Contract Time, or directing you to take corrective action and to adhere to Contract documents
25. "Final Completion and Acceptance of the Work " means the last date on which all of the following events have occurred:
  - a. The Commissioner has determined that all Punch List Work and any other remaining Work have been completed in accordance with the Contract documents;
  - b. final inspections have been completed and operations systems and equipment testing have been completed;
  - c. final occupancy certifications have been issued;
  - d. all deliverables have been provided to the Commissioner; and

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- e. all contractual requirements for final payment have been completed.
26. "Hazardous Materials" means asbestos and asbestos-containing materials, polychlorinated biphenyls, oil or any other petroleum products, natural gas, special nuclear materials, and by-product materials regulated under the Atomic Energy Act (42 USC Sec. 2014, *et seq.*), pesticides under the federal Insecticide, Fungicide and Rodenticide Act (7 USC Sec. 136, *et seq.*) and any hazardous waste, toxic substance or related material, including any substance defined or treated as "hazardous waste," "special waste," or "toxic substance" (or comparable term) in any Environmental Law.
27. "Include" (in all of its forms) means "include without limitation" unless the context clearly indicates otherwise.
28. "Management Consultant" or "Program Manager" means the organization or entity, if any, that the City has retained to oversee the planning, design, and construction of the Project.
29. "Municipal Code" means the Municipal Code of Chicago.
30. "Notice to Bidders" means Advertisement for Bids, the official notice inviting bids for the proposed Work to be done under this Contract.
31. "Night Work" means work performed between the hours of 9:00 p.m. and 8:00 a.m. unless otherwise defined in the plans.
32. "Notice to Proceed" means written authorization from the Commissioner for you to begin the Work on a specified date.
33. "Product Data" are illustrations, standard schedules, performance charts, instructions, descriptive literature, catalogs and brochures, performance and test data, test certifications, diagrams and other information that you furnish to illustrate a material, product, or system, for some portion of the Work.
34. "Project" means, collectively, the improvements you will be constructing in accordance with the Contract.
35. "Record Documents" means all documents pertaining to the completed Work and Project that the Contract requires you to provide to the City, including Record Drawings, record Shop Drawings, Product Data, warranties, instructions, parts list, certified payrolls, operations and maintenance manuals (and photographs and video tape if specified in the Contract).
36. "Record Drawings" means drawings reflecting the final built Project configuration, including approved modifications.
37. "Provide" means furnish and install, unless otherwise specified in this Contract.
38. "Punch List" or "Punch List work" means minor adjustment, repairs or deficiencies in the Work, as determined by the Commissioner, in his sole discretion.
39. "Samples" mean physical examples that illustrate materials, equipment or workmanship. Samples include materials, fabricated items, equipment, devices appliances, or parts of them as called for in the Detailed Specifications, and any other Samples that may be required by the Commissioner to determine whether the kind, quality, construction, workmanship, finish, color and other characteristics of the materials you propose conform to the required characteristics.
40. "Shop Drawings" means drawings, diagrams, schedules and other data specially prepared for the Work by you or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work. Shop Drawings include: fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; wiring and control diagrams; and other drawings



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pertaining to materials, equipment and systems and methods of construction as may be required to show that the materials, equipment or system conform to the Contract requirements.

41. "Special Wastes" means those substances as defined in the Illinois Environmental Protection Act, 415 ILCS 5/3.45, and further defined in Section 809.103 of 35 Illinois Administrative Code, Subtitle G, Ch. 1.
42. "Standard Specifications" means the SSRBC. See Sections I.A.
43. "State" means the State of Illinois.
44. "Subcontractor" means any person or entity with whom you contract to provide any part of the Work, and all subcontractors of any tier, including suppliers and material persons, whether or not in privity with you. See Section XIII.G.1.F (1) for "Field Labor Subcontractor" and Section XIII.G.1.F (2), for "Materials Subcontractor."
45. "Submittals" means Schedule, Shop Drawings, Product Data or Samples and other items as may be required by the Contract.
46. "Substantial Completion Date" is the date upon which you have met the requirements for Substantial Completion
47. "Substantial Completion of the Project" or "Substantial Completion" means that, in the opinion of the Commissioner, you have completed all Work in accordance with the Contract, except for Punch List work, and the City is able to occupy and use the Project for the purpose intended.
48. "Work" means all labor, materials, equipment, deliverables, and other incidentals you are to provide under this Contract that are necessary or convenient to the successful completion of this Project and that are required by, incidental or collateral to the Contract.
49. "Working Day" has the same meaning as in the SSRBC. By contrast, see "Business Day" (I.B.2) and "Day" (I.B.18).
50. "You," in all of its forms, means the Contractor.

#### **C. Usage and Contract Interpretation**

1. Unless a contrary meaning is specifically noted elsewhere, words such as, "as required," "as directed," "as permitted," and similar words mean that requirements, directions of, and permission of the Commissioner are intended. The words "approved," "acceptable," "satisfactory," or words of like import, mean "approved by," "acceptable to," or "satisfactory to" the Commissioner. The words "necessary," "proper," or words of like import as used regarding the extent, conduct or character of the Work specified means that Work must be conducted in a manner, to the extent, or be of character that is "necessary" or "proper" in the opinion of the Commissioner. The Commissioner's judgment in these matters is final and you are not permitted to contest it.
2. Where the imperative form of an address is used, such as "perform the excavating," "provide equipment required," "remove obstructions encountered," "furnish and install reinforcing steel bars," etc., that address is directed to you.
3. Whenever reference to a law is contained in this Contract, the reference includes any amendments to the law.

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**II. CONTRACTOR'S OBLIGATIONS**

**A. Contractor**

1. Except as may be expressly provided otherwise in the Contract, you are solely responsible for selecting the means, methods, techniques, sequences, and procedures used in performing the Work. The intent of the Detailed Specifications is to describe the completed Work that you must provide to fulfill the requirements of the Contract. The Detailed Specifications are not intended to cover every detail of materials, parts, or activities necessary to complete the Work. You must perform all activities that may be required or necessary to complete the Work in accordance with the Contract. For the Contract Price, you must construct, furnish and install all materials, parts and labor necessary to complete the entire Work, whether or not the Contract particularly specifies or shows the details of Work.
2. The Contract Price includes all costs and expenses for which you will be compensated in connection with the Contract, including
  - a. the costs of performing any or all of your obligations and duties under the Contract;
  - b. the costs of all materials, equipment, supplies, tools, machinery, labor, supervision, management and items of any and all kinds that are or may be necessary and incidental to the full and satisfactory completion of the Work, whether or not specified or indicated in the Contract;
  - c. the costs of permits, insurance, bonds and license;
  - d. the costs associated with any risks you assume under the Contract;
  - e. the costs associated with all warranties and guarantees;
  - f. the costs of complying with the directives of the Chief Procurement Officer and/or the Commissioner;
  - g. the costs of complying with all laws applicable to the Contract; and
  - h. all overhead and profit.

No term of the Contract that further specifically indicates that you must bear the costs of an item or that further specifically indicates that an item will be performed at no additional cost to the City will be construed or interpreted to in any way limit the foregoing.

3. You must begin the Work on the date specified in the Notice to Proceed. In addition, upon receipt of the Notice to Proceed, you must assign and maintain during the term of the Contract and any extension of it, an adequate staff of competent personnel who are fully equipped, licensed as appropriate, available as needed, and qualified to perform the Work. You must include among your staff such personnel and positions as the Contract may require.

If, in the reasonable opinion of the Commissioner, the performance of your personnel assigned to the Work is at an unacceptable level, or does not comply with the provisions of Section VIII.A, "Competency of Workers," those personnel must cease to be assigned to this Work and must return to you. You must then furnish to the Commissioner the name of a substitute person or persons in accordance with this Section III.A.6. Absence of sufficient qualified personnel for the Work constitutes an event of default.

4. You must supervise and direct the Work competently and efficiently, devoting such attention and applying such skills and expertise as may be necessary to perform the Work in accordance with

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the Contract. You are responsible for providing a finished Project that complies fully with the Contract.

#### **B. Cleaning Up**

During the construction, you must keep the Work site and adjacent premises as free from material, debris, and rubbish as is practicable and must remove them entirely and at once, if in the opinion of the Commissioner, the material, debris or rubbish constitutes a nuisance, a safety hazard, or is objectionable in any way to the public. Upon verbal and/or written notification of unacceptable work day conditions by the City, you will be responsible for immediate rededication within 48 hours of notification. Your failure to act accordingly will result in completion of remediation work by the City at your expense.

As a condition of Final Completion and Acceptance of the Work, you must remove from the Work site and adjacent premises all machinery, equipment, surplus materials, falsework, excavated and useless materials, rubbish, temporary buildings, barricades and signs, and must restore the site to the same general conditions that existed before the Work began.

You must clean off all cement streaks or drippings, paint smears or drippings, rust stains, oil, grease, dirt, and any other foreign materials deposited or accumulated on any portion of the Work, or existing work, due to your operations.

You are solely responsible for and must assume all liability associated with off-site disposal of any Hazardous Materials generated as a result of your construction activities.

### **III. PROPERTY**

#### **A. Ownership of Property**

The City will be the owner of the Work, including any installed fixtures, upon System Acceptance by the Commissioner Ownership of Detailed Specifications and Other Contract Documents

#### **B. Damage to City Property**

If you cause damage to City property, you must, at the sole option of the City, either: (i) pay the cost of repair of the damage; or (ii) repair or replace any property so damaged. The City has the right to a set-off against its payments to you under this Contract for the cost of any such repairs.

#### **C. System Acceptance**

1. Ready for Inspection. When you deem the Work to be complete, you must notify the Commissioner, in writing, that the Work will be ready for an inspection and/or test on a date you specify. The notice must be given at least 15 days in advance of the date. If the Commissioner concurs that the Work will be ready for inspection or testing on the date given, the Commissioner will make the inspection within a reasonable period of time. The scheduling of the inspection to determine whether the Work is complete does not relieve you of your responsibilities under the Contract. You must cooperate in all respects in the scheduling and performance of the inspection.
2. Payment of Remaining Retainage at System Acceptance. Unless expressly stated otherwise in the Agreement, the remaining Retainage will be paid when all Work, including Punch List work, is complete and you submit to the Commissioner a sworn affidavit stating the following:

- a. All payrolls, invoices for materials and equipment and all other indebtedness connected with



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the Work for which the City might in any way be responsible have been paid or otherwise satisfied;

- b. All waivers of lien required by the Contract have been provided to the Commissioner;
- c. As of the date the affidavit is signed, all known claims made by Subcontractors of any tier and others against you, the City, any agents or representatives of the City pertaining to the Work required under this Contract were provided in writing to the Commissioner and have been resolved;
- d. The warranties and guarantees required by the Contract have been provided to the Commissioner; All warranties and guarantees are in full force and effect;
- e. The surety's written consent, signed by its authorized representative, to final payment being made directly to you is attached to the affidavit;
- f. Acceptance of final payment will constitute a general release to the City, its agents, representatives, officials and employees of all other claims of liability for anything done or furnished or relating to the Work or for any act or neglect of the City or its agents, representatives, officials and employees relating to or connected with this Contract;
- g. Record Documents have been provided to the Commissioner;
- h. All other documents requested by the Commissioner have been provided; and
- i. Wages paid and classifications for laborers and mechanics, including apprentices and trainees employed on the Project, in the following form:

#### FINAL CERTIFICATE

*The undersigned, Contractor on \_\_\_\_\_ (Specification No: \_\_\_\_\_ /Contract No. \_\_\_\_\_) certifies that all laborers, mechanics, apprentices and trainees employed by it or by a Subcontractor performing Work under the Contract have been paid wages at rates not less than those required by the Contract provisions, and that the Work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the Contract or training program provisions applicable to the wage rate paid.*

*Signature and Title*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Authorized Officer

Contractor: \_\_\_\_\_

Project: \_\_\_\_\_

*The payment of the remaining retainage to Contractor signifies the City's Final Completion and Acceptance of the Work.*



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**IV. INSTALLATION PLANS, PRODUCT DATA, RECORDS AND SAMPLES**

**A. Contractor's Responsibilities and Submittal Procedures**

1. Shop Drawings, Product Data, Samples are part of the Work under this Contract, and if also specified, video tape and/or photographs. You must provide them at your expense to the satisfaction of the Commissioner.
2. You must submit to the Commissioner those Shop Drawings, Product Data, Samples, video tape and photographs required for the Work involved under this Contract in accordance with the Schedule.
3. The Schedule must include a schedule of proposed submittal dates. The dates listed in the Schedule must allow sufficient time for review and processing of Shop Drawings or other data by the City and your re-submittal of them, if necessary, before you will need them to complete your performance of the Work they represent under this Contract. No extensions of time will be granted to you because of your failure to have Shop Drawings, Product Data, Samples, video tape and photographs submitted in time to allow for review, re-submittal and final review. You must also submit a separate submittal schedule (in table format), in addition to the Schedule, identifying all Submittals with submittal dates to the Commissioner for review and approval.
4. In preparing the Schedule, you must allow 28 days for review and 14 days for processing into and out of the office. Every reasonable effort will be made by the Commissioner to hold to the above time for normal submittals.
5. You must prepare and submit proper Shop Drawings, Product Data, Samples, video tape and photographs in accordance with your contractual obligations. By submitting them, you represent that you have determined and verified all materials, field measurements, field conditions and quantities, and that you have checked and coordinated the information contained within the Submittal, including your Subcontractors' Submittals, with the requirements of the Work and of the Contract documents. Shop drawings must establish the actual detail of all manufactured and fabricated items and indicate the proper relation to the adjoining Work.
6. You must date and stamp all Shop Drawings, Product Data, Samples, video tape and photographs. You must also indicate on them that you have reviewed and checked them before submission and found to be in conformance with the Contract. All Submittals must be transmitted to the Commissioner. You must clearly mark each Shop Drawing, Video Tape, Product Data and Sample, in accordance with the following for purposes of identification and record:

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**SUBMITTAL IDENTIFICATION**

Name of Project: \_\_\_\_\_

Contract Name and Number: \_\_\_\_\_

Date of Submittal: \_\_\_\_\_

Submittal Number: \_\_\_\_\_

Re submittal of Submittal Number: \_\_\_\_\_

Identification of Deviations from Contract documents: \_\_\_\_\_

Specification Section, Page, and Paragraph No. and/or Drawing No.: \_\_\_\_\_

Type of Material and Manufacturer: \_\_\_\_\_

Intended use: \_\_\_\_\_

Applicable Standards such as ASTM numbers: \_\_\_\_\_

**CHECKED AND SUBMITTED IN ACCORDANCE WITH DRAWINGS AND SPECIFICATIONS.**

Contractor: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

7. Shop Drawings must be submitted with accurate dimensions. The Shop Drawings must represent the actual manner in which the Work is manufactured and installed, and the relation of the Work installed to that of other trades, clearances, and all other pertinent data. Cross-section drawings must indicate minimum clearances and all other pertinent data. Dimensions must be expressed in feet and inches. Designs prepared in the metric system may be submitted with metric units, but the equivalent English units must also be shown. All weights and dimensions must be certified before submission for review.
8. The Commissioner's review and acceptance of Shop Drawings in no way relieves you from responsibility for errors or omissions that may exist in the Work or on the certified Shop Drawings. Where such errors or omissions are discovered, you must correct them at no additional cost to the City. Submittals must be sufficiently complete to allow for proper review. You must submit all Shop Drawings, Product Data, Samples, video tape and photographs to the Commissioner for review with an accompanying transmittal letter containing the above Submittal identification data and a list of items being submitted. You must coordinate Submittals into logical groups or sets to facilitate review of several related items.
9. Any Submittal that in the Commissioner's sole opinion is not complete and in proper form will be returned to you without review. You must not submit as Shop Drawings duplicates or reproductions of any Contract documents issued by the City.

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10. Before submitting Shop Drawings, Product Data, Samples, video tape and photographs, you must notify the Commissioner in writing of any deviations in the Submittals from the requirements of the Contract. If deviations from the Contract requirements are rejected by the Commissioner or if evaluation of the deviations delays the progress of Work, any delay caused will not be compensable by a time extension.

#### **B. Review by the Commissioner**

1. Submittals will be reviewed by the Commissioner for compliance with the Contract. In reviewing them the Commissioner will not verify dimensions and field conditions. Any such review does not relieve you, your Subcontractor, manufacturer, fabricator or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract, nor does it relieve you or them from responsibility for (i) errors of any sort in Shop Drawings, Samples and Product Data, (ii) responsibility for proper fitting of the Work, or (iii) the necessity of furnishing any Work required by the Contract that may not be indicated on Shop Drawings when reviewed. You are solely responsible for any quantities that may be shown on the Shop Drawings. The Commissioner's review of a specific item does not indicate approval of an assembly of which the item is a component.
2. You must not fabricate products, begin Work, order or have delivered any material, equipment or system that requires a reviewed Submittal until return of the Submittal from the Commissioner with a stamp authorizing Work and/or delivery and installation to be performed, as described in Section V.B.3, immediately below.
3. The Commissioner will return Submittals stamped as follows:
  - a. "No Exceptions" means no changes need be made on the reviewed Submittal. You may proceed with the Work for that Submittal. Re-submittal is not required.
  - b. "Exceptions as Noted" indicates that the Submittal is accepted subject to the corrections and/or comments noted. You may proceed with the Work for that Submittal but only if you incorporate the Commissioner's comments, and/or corrections. Re-submittal is not required, but the corrections must be reflected in the Record Documents.
  - c. "Revise and Resubmit" means that the Submittal does not meet all the requirements necessary to proceed with the Work associated with the Submittal. You must resubmit in accordance with the reviewer's comments and/or corrections. Submittals marked in this manner must not be released for fabrication, delivery or construction.
4. If the Submittal requires revision, you must notify the Commissioner and all pertinent Subcontractors, in writing, that the reviewed set has been withdrawn.
5. Submittals that require revisions must be corrected and resubmitted to the Commissioner to maintain the approved Schedule, but in no event more than three days after receipt of the Commissioner's comments.
6. Shop Drawings: After review by the Commissioner, one reproducible stamped by the Commissioner as previously described in Section V.B.3 above will be returned to you.
7. Submission and Review of Samples: If a considerable range of color, graining, texture or other characteristics may be anticipated in finished products, you must furnish a sufficient number of Samples of the specified materials to indicate the full range of those characteristics that will be present in the finished products. Any product delivered or erected without submission and review of full-range Samples is subject to rejection. Each tag or sticker must have clear space for your stamps and those of the Commissioner. Notice of the result of the review will be provided to you



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with one of the stamps indicated in Section V.B.3 above. Rejected samples will be returned. Accepted samples will be retained by the Commissioner and become the property of the City. Where color samples are required to be submitted, color samples must be submitted on the actual material that will finally be installed in the Work. The various parts of the Work must be in accordance with the reviewed and approved Samples.

8. **Product Data:** After review by the Commissioner, two sets of Product Data stamped by the Commissioner as previously described will be returned to you.

#### **C. Source of Materials**

You must notify the Commissioner in writing as soon as possible after the Contract has been awarded, but not less than three weeks before the need for inspection and testing of the source (or sources) from which you expect to obtain the various construction materials. The source of supply of each material used must be approved by the Commissioner before delivery is commenced. If sources previously approved are found to be unacceptable at any time and fail to produce materials satisfactory to the Commissioner, you must furnish materials from other approved sources.

#### **D. Record Documents**

At Substantial Completion, you must deliver all Record Documents to the Commissioner, in suitable transfer cases clearly marked "Record Documents," arranged in proper order and indexed. At the discretion of the Commissioner, the Commissioner may make the submission of all Record Documents a prerequisite to reduction of retention from 5% to 3% under Section XIII.D, "Retainage," of the Contract.

#### **E. Record Drawings**

1. As the Work progresses, you and the Subcontractor for each trade or division of work, under your direction must keep a complete and accurate record of the following:
  - a. Changes between the Work as shown on the Contract drawings and the Shop Drawings indicating the Work as actually installed;
  - b. The specific location of all infrastructure elements, including piping, valves, ductwork, equipment, driveways, catch basins, sewer lines, waterlines, water mains, and other such elements that were not accurately located or changed location or elevation from that shown on the Contract drawings; and
  - c. Equipment schedules indicating manufacturers' names and model numbers installed.
2. You must record changes neatly and correctly daily on full size prints of the Contract drawings updated daily. You must keep this record set of Contract drawings at the job site for inspection by the Commissioner. Upon completion of the Work, you must submit a final set of full-size prints to the Commissioner for review and acceptance.
3. At the time Record Drawings are delivered to the Commissioner, you and each Subcontractor must certify, in writing, that the Record Drawings are complete and accurate.

#### **F. Record Shop Drawings and Product Data**

1. As the work progresses, you must keep a complete and accurate record of the changes and deviations from the Work as shown on the Shop Drawings and Product Data indicating the Work performed. You must furnish Record Shop Drawings in a form and quantity acceptable to the Commissioner. Record Shop Drawings must be submitted for all items reviewed as Shop



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Drawings. Record Shop Drawings must be legibly drawn on sheets of mylar or such other medium as directed by the Commissioner. Record Shop Drawings must be submitted on the same size sheets as the Contract Document drawings and include an index of all items.

2. You must furnish 10 record copies of Product Data in loose leaf binders. Loose leaf binders must be subdivided by Submittal numbers and must contain an index of all items.

#### **G. Instructions, Parts List and Operation and Maintenance Manuals**

You must furnish a complete list of equipment actually installed. The list must include a copy of pertinent nameplate data, name and address of local representative who stocks or furnishes repair or replacement parts, and name, address, and telephone number of the Subcontractor responsible to you for the equipment under the guarantee. You must guarantee any such equipment with respect to the City.

You must submit suitable operating instructions for each major component of equipment and its controls. Instructions must include a schematic diagram accurately showing equipment and controls as installed. You must include with each diagram a set of simple operating instructions stating how the system must be stopped and started, what adjustments are to be made by the operator, and what to do in case of an emergency. You must submit five copies of proposed instructions to the Commissioner for review and acceptance. Upon acceptance, you must post applicable instructions as directed by the Commissioner.

You must submit maintenance data prepared by the manufacturer of each major component of equipment and its controls. Data must include complete parts list, itemized lists of common purchase items of materials (e.g., bearings, packing, connectors, sealing devices, and other standard items) indicated by their standard trade designation, recommended routine and inspection maintenance, including testing recommendations to evaluate efficiency of performance, lists of special tools and gauges, lubricating instructions, and recommended spare parts lists, tolerances and clearances required for maintenance, and trouble-shooting guides prepared in a simple format to indicate complaint or problem, probable cause, and remedy. You must submit five copies of the proposed maintenance data to the Commissioner for review and acceptance in accordance with Article XV.

#### **H. Adjustment of Equipment**

Before the Work is turned over to the City, you must furnish the necessary instruments, test equipment, services, and personnel required to adjust and balance each piece of equipment in order to provide a smoothly functioning, well-integrated system complying with the letter and intent of the Contract.

### **V. QUALITY OF WORKMANSHIP, EQUIPMENT AND MATERIALS**

#### **A. Standard of Performance**

In addition to performing the Work in full compliance with the Contract you must perform, or cause to be performed, all Work required of you under the terms and conditions of this Contract with that degree of skill, care, and diligence normally exercised by qualified and experienced contractors in performing work in projects of a scope and magnitude comparable to the Work.

#### **B. Correction of Work**

1. You must, upon discovery of any defective or non-conforming Work, or when directed in writing by the Commissioner, promptly re-perform, correct or remove all Work identified to be defective or as failing to conform to the standards set forth in, or any requirement of the Contract, whether

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or not completed. You must bear all costs of correcting the defective or non-conforming Work, including costs associated with removing any defective or non-conforming Work, replacing the defective or non-conforming Work with non-defective, conforming Work and any compensation for any additional equipment, materials and/or services made necessary by the removal and replacement.

2. If you do not proceed with re-performance, correction or removal of the defective or non-conforming Work after written notice from the City within the time period designated by the notice, the City may correct or remove it and may store the materials and/or equipment at your expense, then complete the corrective Work. If you do not pay the costs incurred for the removal, storage and correction within 10 days after you receive written notice from the City of the amount of the costs, the City may upon 10 additional days' written notice, sell any such materials and/or equipment at an auction or at a private sale and will account for the net proceeds, after deducting all the costs you are required to bear, including compensation for the City's services. If the proceeds of sale do not cover all costs for removal and correction of the Work, the difference will be charged to you with a deduction of any amounts due you, and an appropriate Contract modification will be issued. If later payments due you are not sufficient to cover the amount, you must pay the difference to the City, or the City may deduct the amount from any other funds due to you, including any amounts due under any other contract between City and you.
3. You must not perform any work without lines and grades or beyond the lines shown on the drawings or outside the scope of the Contract, without the prior written consent or direction of the City. It is not authorized, and if you do so you perform it at your sole expense. Upon direction of the City, work so done must be removed or replaced and those areas restored to their previously existing state at your sole expense.
4. Neither the determination of Final Completion and Acceptance of the Work, nor payment, nor any provisions in the Contract will relieve you of responsibility for defective or non-conforming Work, faulty materials, equipment or workmanship, and unless otherwise specified, you must remedy any defects due to the foregoing and pay for any damage to the Work or other property resulting from defective or non-conforming Work, or faulty materials, equipment or workmanship throughout the Warranty Period, as defined in Section VII.E, "Warranties," below. The City will give you written notice of the observed defects with reasonable promptness.

#### **C. Materials and Equipment**

1. **Quality of Materials.** Unless otherwise specified in the Contract you must use all new materials for the Project and use them in such a manner as to produce completed Work that conforms with the Contract and is acceptable in every detail to the Commissioner. Only materials that conform to the requirements of these specifications may be incorporated or used in the Work. In the absence of a definite specification, materials must be the best of their respective kind with properties best suited to the Work required.

**Materials Inspection and Responsibility.** Before any material is incorporated into the Work, you must submit a "Request for Materials Inspection" to the Commissioner. You are solely responsible for submitting the requests with sufficient time for the City to conduct its inspection. You are not entitled to payment for uninspected materials. The City has the right to inspect any material to be used in carrying out this Contract. The City does not assume any responsibility for the availability of any materials or equipment required under this Contract. By performing any tests or accepting any materials, the City in no way relieves you of any of your obligations or responsibility under this Contract. Materials, components or completed Work that do not comply with the Detailed Specifications and other requirements of this Contract may be rejected by the City, and you must



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replace them at no additional cost to the City. After you receive notice from the City that materials or components have been rejected, you must promptly remove them from the City's premises at no additional cost to the City.

#### **2. Manufacturers' Warranties**

##### **a. You must:**

- (1) ensure that all required manufacturers' warranties pass through to the Department;
- (2) submit all applicable manufacturers' warranties to the Commissioner and ensure that all warranty forms have been completed in the Department's name and registered with the appropriate manufacturers.

- b. Whenever you make repairs or provide replacements under Section VII.E.4, you must provide a manufacturer's warranty for the repaired or replaced Work, if standard with the manufacturer, in addition to your warranty under Section VII.E.2.

## **VI. PERSONNEL**

### **A. Competency of Workers**

You must employ only competent and efficient laborers, mechanics or artisans on the Work. Whenever, in the opinion of the Commissioner, any worker is careless, incompetent, violates safety or security rules, obstructs the progress of the Work, acts contrary to instructions or acts improperly, or fails to follow the safety requirements of this Contract, you must, upon request of the Commissioner, remove the worker from the Work. You must not permit any person or worker to enter any part of the Work or any buildings connected with it who is under the influence of intoxicating liquors or controlled substances.

### **B. Supervision and Superintendence**

While Work is in progress, either by your labor force or that of your Subcontractor, you must have a full-time, experienced and qualified superintendent assigned to the Work. You must superintend the Work and must have a competent superintendent at the job site at all times with authority to act for you as the contact person with the Commissioner.

### **C. Contractors Project Personnel**

No separate payment will be made to you for the cost of personnel. Those costs must be included in the Contract Price.

### **D. Key Personnel**

Upon award of the Contract, you will submit a project staff organization chart that includes the names and resumes of employees in key positions for this project. All employees in key positions must be approved by the Commissioner.

You must employ and assign to work on this Contract a qualified engineer as a project manager with a valid Professional Engineer's License in the State of Illinois, satisfactory to the Commissioner, to act as a contact person with the Commissioner and a Registered Land Surveyor to set and maintain the lines and grades necessary for the proper performance of the Work under this Contract.

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**E. Prevailing Wage Rates**

In the performance of the Work, you are fully responsible for paying not less than the prevailing rate of wages as determined by the Illinois Department of Labor, which must be paid to all laborers, mechanics, and other workers performing Work under this Contract.

Your attention is called to the generally prevailing hourly rate of wages, as determined by the Illinois Department of Labor, which are bound in Exhibit 9 of these specifications and which are incorporated into the Contract. These wage rates are also the prevailing wage rates for the City of Chicago, as determined by the Department as of the date of publication of these specifications.

The wage rates set forth in these specifications were the rates in effect at the time these specifications were issued. If the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid for the Work before completion of the Project, the revised rate applies to this Contract from the effective date of the revision, but the revision does not entitle you to any increased compensation under the terms of this Contract.

As a condition of making payment to you, the City may require you to submit an affidavit to the effect that not less than the prevailing hourly wage rate is being paid to laborers, mechanics, and other workers employed on this Contract in accordance with Illinois law.

**VII. PERMITS AND LICENSES**

**A. Contractor Obtains Permits**

Whenever the Work under this Contract requires permits to be obtained from the City or other public authorities, you must obtain them and furnish triplicate copies of the permits to the City before the Work covered by the permits is started. You must obtain all the necessary permits and pay the associated fees for the special use of, or removal, alteration or replacement of, certain City-owned facilities and appurtenances such as traffic signs, parking meters, trees, sewers, hydrants, bridges and viaducts that are required for you to perform your Work, and you must abide by all applicable municipal ordinances. You must also furnish copies of these permits to the City before the Work covered is started. Information with regard to the above may be obtained by contacting the appropriate City Departments. See Article X below. **NO WORK IS ALLOWED TO PROCEED BEFORE YOU OBTAIN REQUIRED PERMITS.**

**B. City Responsibility**

The City will obtain permits required from the Metropolitan Water Reclamation District of Greater Chicago, the IEPA, IDOT Division of Water Resources, the U.S. Coast Guard, and the U.S. Army Corps of Engineers.

**C. Highway Permit Bond**

If you are required to post a highway permit bond, it must remain in effect for at least five years from the date the permit is issued.



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#### **VIII. COORDINATION WITH OTHER CITY DEPARTMENTS**

##### **A. Water System Work and Usage**

If water from a City hydrant is necessary for the execution of the Work, you must obtain a hydrant permit from the City's Department of Water Management. You must obtain a permit from that department also for any construction, repair or adjustment of any water main, branch or service connection. Requests for permits must be made at the **Department of Water Management, City Hall, 121 North LaSalle Street, Room 906, Chicago, Illinois 60602; 312/744-7060.**

##### **B. Sewer System Work**

If you will be constructing, repairing, adjusting or cleaning any subsurface structure designed to collect or transport storm and/or sanitary waste water, either in private property or in the public way you, through a licensed drainlayer, must obtain a permit issued under this Section VIII.B. (A licensed drainlayer is a person possessing a current sewer and drain license issued by the Department of Water Management.) Requests for permits must be made at the **Department of Water Management (Sewers and Drains), 333 S. State Street, Room 410, Chicago, IL 60604-3971; 312/747-8117.**

Project plans must be submitted to the Department of Water Management (Sewers and Drains) sufficiently in advance for examination and review. Plans meeting the department's requirements must be submitted with the application for permit at least four days before the issuance of permit. When applying for a permit, you must submit three sets of plans that show all new underground sewer Work inside and around the project with a clear site or location plan together with the estimate of quantities for sewer sizes and sewer structures to be installed.

A copy of the permit must be on the Work site before the start of construction. Failure to obtain a permit before the start of construction will result in a penalty and could result in the revocation of the drainlayer's license.

You must arrange for sewer inspections at least 48 hours before the start of Work. Inspections may be requested by calling **(312)744-7501 for Plumbing Inspections and (312) 747-7892 for Mason Inspections.**

##### **C. Traffic Control**

When it becomes necessary for you to close a street, in whole or in part, you must make arrangements with the Department of Transportation, Bureau of Inspections, Construction Compliance Section (Public Way Permits), Room 804, City Hall, Chicago, Illinois 60602, at least two weeks in advance of the closure. The Bureau of Inspections may issue a permit, partially closing a street and setting forth the requirements regarding the furnishing, placing, maintaining and removing of signs, lights and barricades, the furnishing of flaggers, and other provisions for the safe handling of traffic during your use of the street.

You are responsible for all traffic control necessary in obtaining an IDOT Utility Permit for Work within the IDOT right of way.

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**D. Construction Work Within Public Way**

In order to perform any construction work within the public way, you must provide a letter of credit in an amount as required by the Commissioner, with a minimum amount of \$5,000. In addition, any constructing or reconstructing sidewalks, driveways, curb and/or curb and gutter, alleys or finished concrete pavement requires a permit from the Bureau of Traffic in accordance with Chapter 10-20 of the Municipal Code. If you are not licensed as a sidewalk contractor, before any permits for the work can be issued, you must submit written evidence to the Director of Construction Compliance, Bureau of Inspection, that a licensed sidewalk contractor will perform the Work on your behalf. Contact the **Department of Transportation, Bureau of Inspection, Construction Compliance, City Hall, Room 905, 121 N. LaSalle Street, Chicago, Illinois 60602; (312)744/4656).**

**E. Parking Meter Removal and Replacement**

The City will remove and reinstall any parking meters as may be required. However, you must pay all fees required by § 9-68-050 of the Municipal Code. You must advise the Department of Revenue, Parking Operations, in writing, of the location and meter number of those meters to be removed, at least five business days before the date needed for the removal. As soon as the date is known, you must also advise the Department of Revenue, Parking Operations, in writing, of the date when meters may be reinstalled. Contact the **Department of Revenue, Street Operation, 2735 North Ashland, Chicago, IL 60614; (312) 742-6978, fax (312) 645-0811; Attention: Manager on Street Parking.**

You must not remove any parking meters without the express written consent of the Commissioner. If you violate this provision, you (a) recognize that the City will suffer damages as a result, including the costs incurred by the City in tracking, retrieving, and repairing damage to the parking meters, costs that are difficult to ascertain, and (b) will be liable for liquidated damages in the amount of \$350 for each parking meter you removed, which amount will be deducted from any amount(s) due or that may become due you. Contact the **Department of Revenue, Street Operation, 2735 North Ashland, Chicago, IL 60614; (312) 742-6978, fax (312) 645-0811; Attention: Manager on Street Parking.**

**F. Traffic and Parking Sign Removal and Replacement**

The City will remove and re-install any traffic and parking sign(s) as may be required, however, you will be responsible for all fees relative to the removal and replacement of all of the City's traffic and parking signs. You must inform the Bureau of Signs and Markings, in writing, of the location of each sign to be removed and specify its distance from the property line of the nearest cross street. Each sign legend must also be stated. This information must be provided at least five days before removal. You must also inform the Bureau of Signs and Markings, in writing, of when signs may be reinstalled as soon as this date is known. Contact the **Bureau of Signs and Markings, 3458 S. Lawndale, Chicago, Illinois, 60623, Attn.: Deputy Commissioner, (312)747-2210.**

**G. Trees**

In accordance with § 10-32-060 *et seq.* of the Municipal Code, you must obtain a permit from the Bureau of Forestry when removing planting, trimming, spraying, or in anyway affecting the general health or structure of trees in the public way. There is no fee for this permit. The permit must be obtained from the **Bureau of Forestry Permits Division; 3200 S. Kedzie, Chicago, Illinois 60623; (312)747-2098), fax (312) 747-2178.**

The Bureau of Forestry requires 48 hours notice before starting Work for all activities with the

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exception of tree planting, which requires two weeks' prior notice. To obtain tree planting permits, two copies of the site plan must be presented to the Bureau for its review and approval. A Bureau representative must also assist in the selection of those trees to be planted in the public way. Tree planting standards and specifications are outlined in the Bureau of Forestry's "Manual of Tree Planting Standards," which is available upon request from the Bureau of Forestry.

#### **H. Bridges, Viaducts, or Publicly Owned Structures**

Before construction, any proposed Work within 50 feet of any existing bridge, viaduct, or publicly owned structure will require a permit from the Commissioner of Transportation. There is no fee for this permit. The permit must be obtained from the **Department of Transportation, Bureau of Inspections, Construction Compliance, City Hall, Room 905 121 North LaSalle, Chicago, Illinois 60602; (312/744-4656).**

#### **I. Demolition**

If demolition of a structure or removal of an underground storage tank is required during construction, you must obtain a permit and pay the required fee as set forth in the Municipal Code and its amendments to date. The permit must be obtained from the **Department of Construction and Permits, City Hall, 121 North LaSalle Street, Room 900, Chicago, Illinois 60602; (312/744-3400).**

#### **J. Provisions Relating to River Traffic**

When carrying out the contract requires Work to be done over or under the Chicago River, you must comply with marine regulations in every way, so that river traffic may be protected. You must use special care to avoid obstruction of the river. If you find it necessary to obstruct the river at any time, you must advise the Commissioner, through the office of the Chief Bridge Engineer, who will make the necessary inquiries of the proper waterway officials, so that you can schedule your Work without interfering with the movement of vessels. Contact the **Department of Transportation, Bureau of Inspections, Construction Compliance, City Hall, 121 North LaSalle Street, Room 905, Chicago, Illinois 60602; (312/744-4656).**

### **IX. SCHEDULE**

#### **A. Construction Operations Plan**

1. You must, within 14 days after Notice to Proceed, submit to the Commissioner for review the order of procedure you propose to follow in performing the Work. Work begins only after your proposed order of procedure in performing the Work, the Schedule and the methods, and the structures and equipment to be employed have been submitted to and approved by the Commissioner in writing. The Commissioner requires a reasonable amount of time to examine the procedure and Schedule. As Work progresses, the Commissioner may require changes or modifications in the procedure and Schedule, or in the methods, structures and equipment. If so, as soon as you receive notice from the Commissioner, you must perform further Work only in accordance with the changed or modified procedure and Schedule and the changed or modified methods, structures and equipment, as the case may be, that the Commissioner has approved in writing.
2. The Commissioner, in his sole discretion, may reject or require modification of any proposed or previously approved order of procedure, method, structure or equipment, that he or she considers to be unsafe for the Work under this Contract, or for other Work being carried on in the vicinity, or for other structures, or for the public, or for workmen, engineers and inspectors



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employed thereon, or that in the opinion of the Commissioner will result in undesirable settlement of the ground, or that will not provide for the completion of the Work within the period of time specified in the Schedule, or that is contrary to any other requirement of this Contract.

3. The City's acceptance or approval of any order or procedure, method, structure, or equipment that you submitted or employ does not in any manner relieve you of responsibility for the performance of the Work, or for the safety of the performance of the Work under this Contract, or from any liability whatsoever on account of any procedure or method you employ or due to any failure or movement of any structure or equipment you furnish. Even if the Commissioner has given an approval, should any structure or equipment installed under this Contract afterwards prove insufficient in strength or fail in any manner whatsoever, the insufficiency or failure in no way forms the basis of any claim for extra compensation for delay, or for damages or expenses caused by the insufficiency or failure, or for an extension of time for completion of the Work, or for material, labor or equipment required for repairing or rebuilding the structure or equipment, or for repairing or replacing any other Work that may have been damaged by the movement or insufficiency or failure of any such structure or equipment, respectively.

#### **B. No Damages for Delay; Extensions of Time**

1. Should you be delayed in starting, prosecuting or completing the Work by any act of the City, including a delay, change, addition, deletion or modification in the Work or any omission, neglect or default of the City, or by order of the City, or anyone employed by or acting on behalf of the City, or by any cause beyond your control, none of which are due to any fault, neglect, act or omission on your part, then your relief is limited to an extension of the Contract Time that is no greater than the duration of any such delay. The extension of time releases and discharges the City, its employees, officials, agents and representatives from all claims for damages of whatever character, including any claims you may make on account of disruption, changes in sequence, interference, inefficiency, direct or indirect cost or any other causes of delay.
2. Once a delay begins, you must notify the Commissioner of the cause within five days after the delay begins. Consideration of a time extension for events beyond your reasonable control will be made if the delay directly impacts the Schedule for completion of the Work. Events considered to be beyond your reasonable control are limited to acts of God, acts of the public enemy, fires, floods, earthquakes, epidemics, quarantine restrictions, labor strikes at the job site, freight embargoes, or weather significantly more severe than the norm, but only if the listed causes were not foreseeable and did not result from your fault or negligence and only if you took reasonable precautions to prevent delays owing to such causes.

Unless otherwise provided in the Contract, the Contract Time is based on normal weather conditions. An extension is granted for weather significantly more severe than the norm only if you demonstrate to the satisfaction of the City that any delay in the progress of the Work was due to such weather. The basis used to define normal weather will be the "normal" data as compiled by the United States Department of Commerce, National Oceanic and Atmospheric Administration in their most current report entitled "Local Climatological Data, Annual Summary with Comparative Data" for the month for which the time extension is sought. The effects of weather less severe than the norm may be taken into account in considering your requests for time extensions for the effects of more severe weather.

3. No extension of time will be granted under this Section for any delay if you, by your action or inaction, including your fault or negligence or that of your Subcontractors, caused the delay, or for which any remedies are provided under any other provision of the Contract.
4. The grant of an extension of time pursuant to this Section XI.G, "No Damages for Delay and Extension of Time," in no way constitutes a waiver by the City of any rights or remedies existing



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under this Contract, at law or in equity.

5. You must submit any claim for extension of time in writing to the Commissioner not more than 10 days after the delay begins. If the cause of the delay is continuing, only one claim is necessary, but you must report in writing when the cause for the delay ends within 10 days after it ends. If any claim that you make for extension of time does not comply with these time limits, you have waived your rights to any such extension. Any claim for extension of time must:
  - a. State the cause of the delay;
  - b. Specifically demonstrate the impact of the delay on your schedule; and
  - c. State the number or estimated number of extension days requested. .
6. After receipt of a timely and properly completed request for a time extension, the City may as it deems appropriate:
  - a. grant a time extension for the entire length of the delay;
  - b. grant a time extension for a portion of the extent of the delay; or
  - c. deny the time extension.
7. If you do not agree with the City's decision on a claim for time extension, you may invoke the Disputes procedures under Article 9, of the Agreement.

#### **C. Notice of Labor Disputes**

Whenever you have knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, you must immediately give notice to the Commissioner in accordance with Article 14 of the Agreement, and must include all available information with respect to the dispute.

#### **D. Winter Shutdown**

With the approach of the construction season's termination, you must request and receive express written permission from the Commissioner to start new construction operations on any street or any portion of the street in the Project after November 1<sup>st</sup> and before April 15<sup>th</sup>. At the time you submit your written request, it must include a time Schedule designating construction start and completion dates within the Project site location. If permission is granted to begin construction, this Schedule must be strictly adhered to. You must take whatever winter protection measures necessary to complete this Work before adverse weather conditions.

If the Work is not performed according to this Schedule due to your fault or negligence, construction time could be extended into the critical season where adverse weather conditions may prohibit continuation of the construction according to the Contract. If this should occur and cause any street or portion of the street and the surrounding Work area to be in an impassable or hazardous condition, thereby creating undue inconvenience and danger to the area residents, you will be assessed a daily monetary deduction, as specified under the Contract item, "Traffic Control & Protection," for failure to correct deficiencies for the number of days that unsatisfactory conditions prevailed.

Regardless, however, of the circumstances of the starting of the street construction and for whatever reason any street or portion of street is found to be in the aforementioned unfavorable condition, it must not be allowed to remain as such throughout the winter shutdown. You must, at your own expense, put the roadway and the contiguous construction area in a condition, approved by the Commissioner, that can safely and adequately serve the needs of the abutting property owners. You must maintain it in this condition until the time that the new construction is permitted to resume and

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the proposed improvement completed according to the Contract.

#### **X. PAYMENTS**

- 1 Each payment request must include one original and two copies of the following:
  - a. Certified Statement. You must submit certified statement(s) (signed by an authorized individual and notarized) for each payment request; the statement, in the form acceptable to the Commissioner, must list the following for you and for each Subcontractor and supplier for the period for which payment is requested:
    - (1) the total amount of the particular subcontract;
    - (2) the amount previously paid to the Subcontractor,
    - (3) the amount of the particular pay request,
    - (4) the balance remaining under the subcontract to complete the Work.
  - b. Partial Waivers of Lien to Date and Affidavit for Payment. Following your first payment request, you must submit Partial Waivers of Lien from all Subcontractors and suppliers that performed services and provided supplies during the month before your previous payment request. The Partial Waivers of Lien must be in a form acceptable to the City and must identify, at a minimum, the payment request number and time period covered. The Partial Wavier of Lien must be in dollar amount equal to the dollar amount of the services performed or supplies provided by the Subcontractor or supplier during the relevant time period. With every payment request, you must also submit an Affidavit for Payment from all Subcontractors and suppliers for whose services or supplies you request payment. The Affidavit for payment must be in a form acceptable to the Commissioner and identify, at a minimum, the payment estimate number, the time period covered, and the total amount invoiced by the Subcontractor or supplier, and the total amount paid to the Subcontractor or supplier to date.
  - c. MBE/WBE Utilization Report. A status report of MBE/WBE Subcontractor payments, as required by the Contract documents, must be submitted with each monthly invoice in the form required by the City; and
  - d. Certified Payrolls. You and all Subcontractors working on the job site must submit three copies of certified payrolls for the payment period to the Commissioner every week until all Work is completed. All payrolls must be identified with Contractor or Subcontractor's name, as appropriate, Contract name and be sequentially numbered. If there are periods of no Work by you or a Subcontractor, you must submit a payroll labeled "NO WORK." The final payroll must be clearly labeled "FINAL". Certified payrolls are required to assure EEO compliance as well as wage compliance. Race, worker classification, and gender must be clearly marked for each employee on the certified payroll along with all additional information required by the Chief Procurement Officer. An employee's address should appear every time his or her name appears on the payroll. You must submit the certified payrolls and additional information regarding EEO and wage compliance by providing a Payroll Summary Report in the form required by the Chief Procurement Officer. You and each Subcontractor must submit the EEO report forms required by the City and U.S. Department of Labor reflecting fully the periods of Work covered by the partial payment request.

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- e. In March 2004, the Chicago City Council passed an ordinance requiring the City to report payments to subcontractors and suppliers on the City's website. This ordinance applies to all City-funded, construction-related contracts awarded after June 28, 2004. In order to comply with this new ordinance, contractors meeting these criteria will be required to declare subcontractor payments with each invoice submitted. This reports the intended payments from prime contractors to subcontractors and suppliers from the invoice. The Subcontractor Payment Certification Form can be downloaded from the City's website at [www.cityofchicago.org/finance/subcontractorform](http://www.cityofchicago.org/finance/subcontractorform). The information from this form will be recorded in the City's financial system and posted on the City website.

#### **A. Retainage**

1. Under § 2-92-250 of the Municipal Code, the City must retain 10% of each approved periodic payment estimate covering the first 50% of the Contract Price including approved change orders to date.
2. After Work costing 50% of the Contract Price is performed, the Commissioner must maintain as retainage, an amount equal to 5% of the Contract Price for the Work, including approved change orders, until Substantial Completion of the Project.
3. Upon System Acceptance and before the computation of the final quantities, the City may, in its sole discretion, release a portion of the retainage so that the amount retained by the City is not less than 3% of the Contract Price. The City may, at its sole discretion, decline to reduce the retainage held, and retains the right to increase the amount of the retainage withheld if the Commissioner and the Chief Procurement Officer consider it necessary.
4. The retained amount, less any amount for damages or other amounts that the Chief Procurement Officer determines should be deducted, will be paid to you as final payment upon:
  - (a) System Acceptance,
  - (b) your compliance with this Contract's conditions for payment and performance of the Work in accordance with the terms and conditions of the Contract,
  - (c) payment to all Subcontractors, workers, employees, suppliers and material persons for Work performed and materials supplied, and
  - (d) computation of the final quantities of Work.

#### **B. Payments to Subcontractors**

You must pay all Subcontractors and suppliers within 14 days of your receiving payment for that portion of the Work from the City, but only if and when the Subcontractor has satisfactorily completed its Work in accordance with the Contract.

#### **C. Payments Withheld**

1. The Commissioner may decline a request for payment if, in the Commissioner's sole opinion, the request for payment is not adequately supported. If you and the Commissioner cannot agree on a revised amount, the Commissioner must process the payment in the amount he deems appropriate.
2. The Commissioner may decline to process any payment or may rescind in whole or in part any approval previously made to the extent that may be necessary in his sole opinion because of any failure to perform any obligation under the Contract, including:

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- a. Failure or refusal to provide the City the required initial schedule for the Work or monthly schedule updates and obtain the City's approval for either or both;
  - b. Your failure to remedy defective Work;
  - c. Your failure to make payments to Subcontractors, or employees, or provide partial waivers of lien;
  - d. Your failure to maintain timely progress of the Work as stated in your schedule, or the City's determination that the Work will not be completed within the Contract Time, or your failure to carry out the Work in accordance with the Contract;
  - e. Failure to follow the City, State, federal, or Contract safety and security requirements;
  - f. Failure to maintain insurance policies as required by the Contract and/or to provide to the Commissioner each evidence of insurance coverage, in the form of current certificates of insurance, as he or she may require;
  - g. Failure to comply with other requirements as referenced in the Contract;
  - h. Failure to provide certified payrolls or other documents required under Section XI.B, "No Damages for Delay and Extensions of Time."
  - i. Failure to provide material inspections as required by the Contract; and
  - j. Failure to provide contract deliverables such as, accurate Record Drawings, record Shop Drawings, warranties, guarantees, manuals, etc.
3. Under § 2-92-270 of the Municipal Code, the Chief Procurement Officer may, in his sole discretion, direct that no further payments be made, or vouchers or estimates issued to you, if he determines that you have failed to pay any Subcontractor, employee or worker for Work performed under this Contract. The City may withhold payment until you demonstrate, to the satisfaction of the Chief Procurement Officer, that payments to the Subcontractors, employees or workers have been made in full.

If the Chief Procurement Officer gives you notice under that no further vouchers or estimates will be issued or payments made on the Contract until the Subcontractors, workers, and employees have been paid, and you neglect or refuse for a period of 10 days or more after notice was given to pay those Subcontractors, workers or employees, the Chief Procurement Officer may apply any money due, or that may become due, under the Contract to the payment of those Subcontractors, workers or employees without further notice to you and the effect will be the same, for purposes of payment to you of the Contract Price, as if the City had paid you directly.

The failure of the City, however, to retain and apply any money, or of the Chief Procurement Officer to order or direct that no vouchers or estimates be issued or further payments made, will not, nor will the paying over of the reserved percentage without the Subcontractor, workers, or employees being first paid, in any way affect your liability or that of your sureties to the City, or to any such Subcontractor, worker or employee upon any bond given in connection with this Contract.

4. The City's rights under this Section X.C, "Payments Withheld," are cumulative with any other rights provided for under this Contract. Failure by the City to exercise any such right afforded in this Contract, or at law or in equity, will not constitute a waiver of that right.

#### **D. Night, Sunday and Holiday Work**

Whenever you are permitted to perform Work at night, on Sundays or Holidays, or to vary the period of hours during which any Work is carried on each day, you must give written notice to the Commissioner, at least 24 hours in advance, so that proper inspection may be provided. The Work



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will be done under regulations to be furnished in writing by the Commissioner, and no extra compensation will be allowed for it.

#### **E. Acceleration**

1. If progress falls behind the approved schedule, the Commissioner may direct and authorize you, in writing, to perform premium time work as indicated in TIME OF COMPLETION in the Proposal section of the specifications. The City will pay you NO additional compensation for such premium time work, and the cost incurred for inspection and testing during the premium time work will be considered as "extra" inspection, for which you must reimburse the City as described in Section XII.C, "Materials and Equipment Testing and Inspection."

#### **F. Payroll Canvass Reports**

You must submit to the Commissioner with each pay request a Payroll Canvass Reports (PCR) in a format approved by the Commissioner. You must submit the PCRs to indicate compliance with the Chicago Residency Ordinance requirements. A pay period canvass report must be prepared separately by you and each of your Subcontractors on Exhibit B to indicate, on a weekly basis, hours of each trade utilized during each pay period by you and your Subcontractors on the project. A combined Payroll Canvass Summary Report must be prepared by you on Exhibit C to indicate accumulated hours of each trade you and all of your Subcontractors have utilized, to date, on the Project. You are also responsible for the accuracy of information and all arithmetical calculations made in the Payroll Canvass Reports.

You must submit within five days after the award of the Contract Exhibit A, Anticipated Workforce Projection Form, included in the Contract, to the Chief Procurement Officer.

#### **G. Electronic Ordering And Invoices**

The Contractor will cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to catalogs, purchase orders, releases, and invoices. Contractor will accept electronic purchase orders and releases upon request of the Chief Procurement Officer. Contractor will provide the City electronic catalogs, copies of invoices and other electronic documents upon request. The electronic ordering and invoice documents will be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The Chief Procurement Officer reserves the right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor will ensure that the essential information, as determined by the Chief Procurement Officer, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents. The electronic documents will be in addition to paper documents required by this Contract, however, by written notice to the Contractor, the Chief Procurement Officer may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

## **XI. CHANGES IN THE WORK**

#### **A. City's Right to Change Work**

The Chief Procurement Officer and the Commissioner reserve the right to jointly order, in writing, changes in the Work or the Contract Time without prior notice to your surety. You are obligated to perform in a timely manner the changed Work included in the written notice from the Chief

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Procurement Officer and Commissioner. These changes may consist of additions, deletions, or other revisions, at the discretion of the City.

#### **B. Contract Modification**

The final provisions of the Change Order, including the adjustment in the Contract Sum and/or the Contract time, if any, will be incorporated into a written Contract Modification signed by the City and you.

#### **C. Contractor's Release**

All Contract Modifications constitute a full release of the City from any liability for any additional compensation or extension of time arising or resulting from the Work performed pursuant to the Contract Modification. By executing a Contract Modification, you accept the compensation and/or time extension provided in it in full accord and satisfaction for that Contract Modification, and you expressly waive, release and relinquish all additional claims and demands relating to or arising out of the matters covered by that Contract Modification, including direct or indirect cost, profit, or damages related to disruptions.

#### **D. Performance of Changed Work**

You must promptly proceed with any changes in the Work or Contract Time as directed by a written order of the Commissioner ("Field Order"), in accordance with Section XIV.A, "City's Right to Change Work," with or without any Contract Modification. Your refusal or failure to proceed promptly with the changed Work as directed constitutes an event of default under the Contract. No change to the Work by you as directed by the Commissioner will operate to invalidate the Contract or release your surety.

## **XII. TESTING & INSPECTION**

#### **A. Material, Inspection and Responsibility**

The City has the right to inspect all materials, equipment and each part or detail of Work, at any time, to be used in carrying out this Contract. The City does not assume any responsibility for the availability of any materials or equipment required under this Contract. You are responsible for all materials, components and completed Work furnished under this Contract. The City may reject materials, components or completed Work not complying with the terms and provisions of this Contract and you must replace it or them at no additional cost to the City. You must promptly remove any rejected materials or components rejected from the City's premises at no additional cost to the City after you receive notice from the City that the materials or components have been rejected.

#### **B. Inspection of the Work**

1. All materials and equipment and each part or detail of the Work are subject at all times to inspection by the Commissioner or the Commissioner's authorized representatives. You are held strictly to the requirements of the Contract with respect to quality of materials, workmanship and the diligent execution of the Contract. The inspection may include mill, plant, shop and field inspection of any material or equipment furnished and any installation and construction under the Contract. You must allow the Commissioner and his representatives access to all parts of the Work and furnish such information and assistance as he may require to make a complete and detailed inspection.

2. All materials used must be inspected, tested and approved by the Commissioner before being incorporated in the Work. All tests performed by or at the direction of the Commissioner under



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this Contract are to verify that the materials you are providing meet the Contract requirements. You, at your own expense, may perform or have others perform similar tests for the purpose of maintaining the quality of the material being provided. Payment will be solely on the results of the tests performed by the Commissioner. Payment will not be made for uninspected or unauthorized use of materials incorporated into the Work.

3. You must remove or uncover such portions of the finished Work as the Commissioner may direct before acceptance. After the examination, you must restore the portion of the Work to the standard required by the Contract. If the Work thus exposed or examined proves acceptable, the City will pay the expenses of uncovering, removing and/or replacing the parts as extra work, but if the Work so exposed or examined is unacceptable, you must bear the expense of uncovering, removing and/or replacing of it in accordance with the Contract.
4. Except as may be otherwise specified in other sections of the Contract, the Commissioner will make final inspection of all Work included in the Contract as soon as possible after you notify him that the Work is substantially completed and ready for acceptance. If the Work is not acceptable to the Commissioner at the time of the inspection, he or she will inform you as to the particular defects to be remedied before the Work is accepted as substantially complete.

**C. Materials and Equipment Testing and Inspection**

1. You must provide the Commissioner sufficient notice of placing orders to permit tests to be completed before the materials are incorporated into the Work. You must afford such facilities as the Commissioner may require for collecting and forwarding Samples and making inspections and test. All Samples must be furnished without charge to the Commissioner. You must not make use of or incorporate into the Work the materials represented by the Samples until tests have been made and the materials have been found to be in accordance with the requirements of the Contract.
2. For materials that are integral parts of machinery or equipment or of parts of equipment that you or your Subcontractor normally stock, you must furnish the original and one copy of certified tests made at the time of production. You will keep the original and the Commissioner will retain the copy.
3. You must assure that the Commissioner has free entry, at all times while Work is being performed, to all parts of the manufacturer's works that concern the manufacture of the material or equipment ordered. The Commissioner must be permitted to examine all components and subassemblies. Assemblies and parts must be numbered for identification. You must provide the Commissioner with a detailed production schedule before the first inspection. After review of the schedule, the Commissioner will inform you of the methods, extent of inspection, facilities desired and date of inspection. You will afford the Commissioner without charge, all facilities necessary to determine that the material or equipment furnished are in accordance with the Contract. Test and inspection may be at the place of manufacture before shipment.
4. If for any reason, the City elects not to make the tests, the Commissioner may direct you to make the necessary tests. You must furnish a certification of the ordered tests after completion. The Commissioner reserves the right to inspect and reject all materials or equipment that were previously inspected and accepted at the place of manufacture or source of supply, after they were delivered to the Work site, if the materials or equipment do not meet the requirements of the Contract.
5. When an inspection trip is terminated due to insufficient materials, unacceptable quality, Contractor labor problems, or Contractor equipment problems, you must pay the City its costs for any additional inspection trip.

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6. The Contract documents may include the cost of travel and living expenses for a specific number of City employees and/or other persons for a specific test. The travel and living expenses for the additional City employees or additional person(s) will not be a cost to you. The manufacturer or you must furnish a certification of the ordered tests after completion. The Commissioner reserves the right to reinspect and reject all materials or equipment that have been previously inspected and accepted at the place of manufacture or source of supply, after they have been delivered to the site if the materials or equipment do not meet the requirements of the Contract.
7. Unless otherwise provided in detailed specifications, all materials will be sampled and tested in accordance with the latest published standards and methods of the American Society for Testing and Materials (ASTM) and any revisions of them. If there are no ASTM standards that apply, applicable standard methods of other recognized standardizing agencies will be used. You must provide the name and qualifications of any such standardizing agency to the Commissioner for review and approval.

#### **D. Testing Laboratory Labels**

You must submit all equipment containing electrical wiring to the City for acceptance before installation. All electrical components that you furnished and installed or assemble under this Contract must be approved and so labeled by one of the following Testing Laboratories:

1. Underwriters' Laboratories (UL)
2. Canadian Standards Association (CSA)
3. Electrical Testing Laboratory of New York (ETL)
4. Illinois Institute of Technology research Institute (IITRI)
5. American Gas Association (AGA)
6. Factory Mutual Research Corporation (FMRC)
7. Maintenance and Electrical Testing (MET)
8. American Research Lab (ARL)

Any electrical unit comprised of a number of components, assembled at the factory and considered custom made, must bear one of the above labels for the entire unit as well as for each component.

You must pay all costs in obtaining a testing laboratory label at no additional cost to the City. Any delays in completion of the Work caused by the manufacturer of equipment in obtaining the required testing laboratory labels and the City approval are not grounds for an extension of time beyond the time of completion indicated in the Contract.

### **XIII. CONTRACTOR PRACTICES AT SITE**

#### **A. Cooperation Among Contractors**

You must conduct the Work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors within or adjacent to the Work site. You must assume all liability, financial or otherwise, in connection with this Contract, and must protect and save harmless the City from all damages or claims that may arise because of inconvenience, delay, or loss experienced due to the presence and operations of other contractors working within the limits of the Work. You must assume all responsibility for Work not completed or accepted due to the presence and operations of other contractors. You must coordinate and tie-in, where appropriate, your Work with that of others in an acceptable manner and perform the Work in proper sequence to the work of



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others. When other contractors cause any damage to the Work that you performed, you must file claims with the other contractors, and not against the City, and you must obtain compensation for damage directly from those other contractors.

#### **B. Protection of Persons and Property**

1. **Protection of Existing Structures and Property.** You must avoid causing damage to trees, plant life, sidewalks, curbs, streets, alleys, pavements, utilities, adjoining property, the work of other contractors and the property of the City and others, and must, at your own expense, repair any damage that you or any Subcontractor may cause.

You are responsible for loss or damage by fire or theft of equipment, material, or other property of the City, incurred while the equipment, material or other property is located in any field office or on the site of the Work. Further, you must repair or replace any such equipment, material or other property so lost or damaged, to the satisfaction of the Commissioner, at no additional cost to the City.

You must familiarize yourself with the requirements of local and state laws applicable to underpinning, shoring and other Work affecting adjoining property and, wherever and whenever required by law, site conditions or standard industry practice, you must shore-up, brace, underpin, secure and protect all foundations and other parts of existing structures adjacent to, adjoining and in the vicinity of the Work site that may be in any way affected by the excavations or other operations connected with the Work to be performed under this Contract.

You are responsible for the giving of all required notices to any adjacent or adjoining property owner or other potentially affected party. The notice must be served in sufficient time so as not to delay the progress of the Work under this Contract.

You must take such precautions as are necessary to insure the safety of private property owners, lessees, and their invites against injury caused as a result of settlement or displacement of structures. You must immediately proceed with all shoring or other Work necessary to restore the private property owner's property to a safe condition. If you fail to undertake the Work within 24 hours after written notice by the Commissioner, the City may proceed to repair or restore any such structure to a safe condition, and the cost of it will be deducted from any compensation due, or that may become due to you.

If, in the prosecution of the Work, it is necessary to excavate or occupy any street, alley, or public grounds of the City, you must erect and maintain such barriers, and, during the night time, such lights as will effectively prevent the happening of any accidents or damage to life, limb, or property in consequence of such excavation or occupation of such street, alley, or public grounds. You are liable for all damage occasioned by you, your agents, employees or Subcontractors of any tier in the excavation or occupation of any street, alley, or public grounds, and you must indemnify the City pursuant to Article XIX, "Insurance, Indemnity and Bonds."

Upon System Acceptance, you must remove all machinery, equipment, materials, false work, rubbish or temporary structures and leave the Work site and the premises of any private property owners in as good condition as they were before commencement of Work.

Materials and equipment necessary for the performance of the Work may only be placed, stored or allowed to occupy any space in public streets or alleys upon the written consent of the Commissioner. It is the City's intent that the operations under this Contract are conducted as far as practicable without interference with the public use of streets and alleys. All materials or equipment used in the performance of the Work must be placed so as not to impede traffic on streets and alleys adjacent to the site of the Work, and to allow free access to all fire hydrants, water valves and manholes that are a part of electric, telephone and telegraph conduit lines, fire alarms and police call boxes in the vicinity.

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In removing existing pavements, sidewalks, curbs, gutters, walls, foundations, vaults and other structures, the use of any type of impact device in a manner that might damage buildings or their foundations, or other underground structures and utilities is not permitted.

You must indemnify and hold the City harmless from any damage due to settlement or the loss of lateral support of adjacent or adjoining property and from all loss or expense and all damages for which the City may become liable in consequence of the injury or damage to adjacent and adjoining structures and their premises. Your indemnity obligations will survive the expiration or termination of this Contract and include and apply to any liabilities and duties placed upon the City as owner or occupant of the property on which the improvements provided for in this Contract are to be constructed, by the provisions of an Act entitled "An Act to Prescribe the Duty of an Owner or Occupant of Lands Upon Which Excavations are Made in Reference to the Furnishing of Lateral and Subjacent Support to Adjoining Lands and Structures Thereon." See of 765 ILCS 140/0.01 *et seq.*

2. Existing and Proposed Utilities. The Contract may show existing utilities lying within the limits of the Work, such as sewers, manholes, catch basins, gas lines, water lines, telephone and electrical duct lines, CTA facilities, and similar structures. The City does not guarantee the completeness or accuracy of the information regarding utilities, whether public or privately owned. You must make your own investigation to determine the existence, nature and location of all utilities at the Work site. You must verify the exact location of all utilities that may interfere with performance of the Work and must report to the Commissioner any differences from the locations shown on the Contract.

You must so arrange and conduct your Work that utilities may be removed, relocated or supported during excavation and maintained in service until the Work is completed. In addition, you must arrange and conduct your Work that utilities may be replaced, rearranged or relocated before backfill being placed. You must cooperate with the owners of those utilities in the performance of the Work.

Where existing utilities are abandoned and it is necessary to remove them due to the performance of the Work, you must remove them at no additional cost to the City, and they will become your property.

It is your responsibility to protect those existing utilities that are to remain in operation during and after completion of the Work, and any new utilities installed by others during the performance of the Work. You will be held fully responsible for any damage resulting from your performance of the Work, and will be required to repair, replace or reconstruct any utilities damaged, at your own expense, to the satisfaction of the Commissioner. The protection of the utilities as specified in this Contract must be at no additional cost to the City.

3. Utilities Outside the Limits of the Work. You must protect and maintain City-owned water lines, sewers, connections and appurtenances and all City-owned electrical conduits, cables, vaults and appurtenances that are located entirely outside the limits of the Work in a satisfactory manner until the completion of the Work. Whenever in the performance of the Work it is necessary, because of the nature of the Work or because of your method of performing the Work, to support, remove, replace, relocate, rearrange, adjust or repair such City-owned structures located entirely outside of the excavations, you must notify the appropriate City department to perform the Work, and must cooperate with the department in preserving service. You must reimburse the appropriate City department for the cost of performing the Work at no additional cost to the City under the terms of this Contract.
4. Utility Relocation and Continuance of Service Plan. You must prepare a Utility Relocation and Continuance of Service Plan, identifying procedures, locations, time frames and affected agencies and private owners. The Plan must be submitted to the Commissioner for review within

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14 days after the Notice to Proceed.

5. Cooperation with Utilities. You must cooperate with all utility companies involved in connection with the removal, temporary relocation, reconstruction, or abandonment by these agencies of all services or facilities owned or operated by them within the limits of the Work.
6. Work Performed by Others. The Work must be performed with a minimum of interference to street traffic in the area. You must coordinate your Work with that of other City contractors, with contractors employed by adjacent property owners, and with contractors employed by any other party or parties for work on utilities to insure the best progress of the Work as a whole.
7. Preservation and Protection of City Standard Bench Monuments and Survey Controls. You are responsible for the preservation and protection of all City Standard Bench Monuments, in accordance with the provisions of § 10-4-220 of the Municipal Code and Article 105.09 of the Standard Specifications, and as directed by the Commissioner. Any survey control point that you disturb or remove you must replace or reestablish to the satisfaction of the Commissioner, at no additional cost to the City. **DAMAGE TO ANY OF THE CITY STANDARD BENCH MONUMENTS WILL RESULT IN YOUR BEING PROSECUTED TO THE FULL MEASURE OF THE LAW.** The Department of Transportation will pursue the matter of compensation for damages incurred by the City resulting from your actions or your failure to act during the execution of Work on this project.
8. Protection of Streets and Traffic. You must provide all necessary barricades, signs, flags, lights and reflectors. You must assure that vehicular and pedestrian traffic on all streets, including adjacent streets, bridges, overpass structures and ramps, are maintained during the performance of the Work in accordance with the requirements of the Contract.
9. Temporary Restoration of Trench Cuts. Failure to maintain the temporary restoration of trench cuts, which causes the surrounding work area to be in an impassable and/or hazardous condition thereby creating undue inconvenience and danger to area residents is an event of default under this Contract.
10. Temporary Barriers, Signs, Lights and Flaggers. You must furnish, relocate and remove portable barricades and lights, collision protection, temporary signs (including traffic and project signs) and supports as directed by the Commissioner; and furnishing all necessary flaggers and other protection necessary for the maintenance of traffic flow in a safe and orderly fashion, as required by Article 107.14 of the Standard Specifications, except as otherwise specified in the Contract.  
  
You must maintain, repair or replace all damaged or destroyed appurtenances referenced in the immediately preceding paragraph throughout the life of the Contract. Maintenance includes cleaning of the barricades and traffic signs by means of clean water. Flaggers must be provided whenever circumstances warrant.  
  
The barricades must be erected, moved, repaired and repainted as required. Upon the completion of the Work, all barricades remain your property and must be promptly removed from the Work site.
11. Historical and Scientific Specimens. You must preserve and deliver to the Commissioner any specimens of historical or scientific value encountered in the Work, as directed by the Commissioner.

#### C. Protection of Streets, Alleys and Public Grounds

1. When excavating or occupying any street, alley or public grounds of the City, you must erect and maintain temporary barriers and, during the night time, lights that will effectively prevent



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accidents or damage to life, limb or property in consequence of the excavation or occupation of the street, alley or public grounds. You are liable for all damages as a result of the excavation or occupation of any street, alley or public grounds, or by the carelessness of you, your subcontractors, agents, employees or workers and must indemnify and hold harmless the City against all judgments rendered against it by reason thereof.

2. Construction Period Traffic Management Plan. You must prepare a Construction Period Traffic Management Plan consistent with the requirements of the Contract. The Plan must be submitted to the Commissioner for review within 14 days after award of the Contract. You must comply with all applicable federal, state and local requirements and coordinate with Chicago Department of Transportation, Bureau of Traffic and Illinois Department of Transportation. You must also comply with the following requirements:
  - a. Construction staging segments must be kept as short as feasible;
  - b. Lane closure must be kept to a minimum, and at least one lane must remain open to vehicular traffic;
  - c. Intersections must remain open to traffic in both directions at all times;
  - d. Detours must be provided in streets as necessary and approved by the Commissioner;
  - e. Signage plans must be developed and implemented for all approved detours;
  - f. Coordinate adjustments required for traffic signals; and
  - g. Allow for emergency access at all times.

**D. Protection of Existing Trees in the Right of Way**

1. In accordance with the provisions of Chapter 10-32 of the Municipal Code you must protect all trees and shrubs at the construction site from damage. You must restore all damaged parkways to their original condition and repair or remove and replace any trees and shrubs damaged as a result of construction activity (as determined by the Department of Streets and Sanitation, Bureau of Forestry) at your expense. If any trees or shrubs damaged by construction activity must be removed and replaced, and trees or shrubs of comparable size, type, and value are unavailable or the time for planting is unsuitable, the City will charge you their appraised value determined as provided under § 10-32-200 of the Municipal Code, which amount the City will deduct from amounts due you, or, if no amounts are due, then you must promptly pay the City the amounts determined. Any tree greater than 4" D.B.H. that is permanently damaged due to the construction project and not originally marked for removal must be replaced with a new tree as identified by the Bureau of Forestry and must have a minimum of 4" caliper B&B. Any damaged tree smaller than 4" caliper measured 6" above the ground must be replaced in kind, inch for inch.
2. You must install a **protection barrier or temporary fence** of at least 1.2m (4 feet) in height around each tree to be *protected and preserved*. The *tree protection* must be installed before the actual construction starts and maintained for the duration of the project.

Within this protection zone, you must prevent construction materials from being stored, equipment from being operated and temporary storage buildings or work trailers from being placed.

The protection barrier must be constructed of orange snow fencing securely fastened to fence posts spaced a maximum of **1.5 m (5 feet)** on center. Posts are 1.8m (6 feet) in length with 61 cm (2 feet) set into the ground and 1.2m (4 feet) extending above ground. The fencing must be attached to the post with a minimum of four nylon locking ties evenly spaced at each post.



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Dimensions of the **protection barrier** are as follows:

**Trees located in Tree Pits:** Where trees are located within Tree Pits, the temporary fencing should be installed at a minimum distance of the inside dimension of the Tree Pit opening with one stake at each corner of the opening. (See Illustration 1.)

Trees located in Parkways or Boulevards: (See Illustration 2.)

**Small Trees (<9" D.B.H.):** Minimum 1.5m (5 feet) from face of tree along the parkway length. In the dimension bordered by the public sidewalk or curb, the temporary fencing must be the width of the grass parkway with a maximum offset of 30cm (1 foot) from back of curb or edge of sidewalk. In no case must the closure be less than 61cm (2 feet) from the centerline of the tree.

(Example: 6" Tree in a 6' parkway as measured from back of curb to sidewalk. The dimension of the protection fencing would be 1.2m x 3m (4' x 10') with tree in the center). Note: Larger grass parkways (>12') may allow for a ten foot by ten foot (10' x 10'). Thus, the dimension bordered by the sidewalk or curb would not affect fencing distance.

**Medium (10"to 15" D.B.H.):** Minimum of ten (10) feet from face of tree along the parkway length. In the dimension bordered by the public sidewalk or curb, the fencing must be the width of the grass parkway with a maximum offset of one foot from back of curb or edge of sidewalk. In no case must the closure be less than two feet from the centerline of the tree.

**Large (>15" D.B.H.):** Minimum of 15 feet from face of tree along the parkway length. In the dimension bordered by the public sidewalk or curb, the fencing must be the width of the grass parkway with a maximum offset of one foot from back of curb or edge of sidewalk. In no case must the closure be less than two feet from the centerline of the tree.

[ILLUSTRATIONS FOLLOW]

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**ILLUSTRATION 1:**



**ILLUSTRATION 2:**



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**E. Care of Existing Structures and Property**

1. **Property Access Maintenance Plan.** You must prepare a Property Access Maintenance Plan consistent with the requirements of the Contract. The plan must be submitted to the Commissioner for review within 14 days after award of the Contract. You must comply with all applicable federal, state, and local requirements. You must also comply with the following requirements:
  - a. Maintain vehicle and pedestrian access to properties;
  - b. Maintain pedestrian access on both sides of all streets;
  - c. Provide access walkways to all buildings and businesses;
  - d. Sidewalks must remain open to the maximum extent possible;
  - e. Provide temporary relocation of access, where required;
  - f. Provide advisory and temporary signs for pedestrian and vehicle access changes and reroutings; and
  - g. Coordinate delivery locations and timing.
2. Before doing any Work adjacent to or on the site of any buildings or other structures adjoining or in the line of the Work to be performed under the Contract, you must supply written notice of it to the owner or owners that the Work is to be done, and must cooperate with the owner(s) in the maintaining, removing, relocating, rearranging or adjusting wherever necessary, of all basements of buildings, subsidewalk vaults, tunnels, conduits, wires, poles, pipes, gas mains, cables, steam and street railway tracks and equipment, or other appliances and structures located in any portion of the streets, public areas, highways and easements to be occupied or used during the prosecution of the Work.
3. Wherever in the performance of the Work it is necessary to remove, reconstruct, relocate, rearrange, adjust or repair City-owned sewers, catch basins, manholes, inlets, sewers connections and appurtenances by reason of the fact that the structures and appurtenances pass through or are located within the limits of the Work as shown on the plans, or ordered by the Commissioner you must perform the Work necessary to remove, reconstruct, relocate, rearrange, adjust or repair those structures and appurtenances, unless otherwise noted on the plans.
  - a. The Commissioner has the right to determine, at his sole discretion, the method of Work to be carried on to interfere as little as possible with the normal conduct of business in or around the portions of the buildings or structures in use.
  - b. The building or structures may be in full time use and operation and will continue in normal use during performance of the Work. Building facilities, including heating, ventilation, and air conditioning, lighting and plumbing, will not be interrupted in the occupied areas, except as required for making connections to power sources as specified below.
  - c. You will serve written notification to the Commissioner requesting any anticipated interruption in facilities at least two weeks before disruption of services. You must provide any temporary facilities deemed necessary by the Commissioner due to a disruption of services. The Commissioner, in his sole discretion, will determine the procedures, times of day and dates you may accomplish the Work and may reject or modify your request.
  - d. Storage of all material and/or equipment must be in areas approved by the Commissioner, in a manner to minimize interference with the normal conduct of business in or around the

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occupied portions of the building and vehicular areas.

4. You must not perform Work on City-owned water mains, connections and appurtenances or on any City-owned electrical conduits, cables, vaults and appurtenances unless the City has abandoned the structure and the Commissioner has authorized the Work or the Work is included in the Contract. But, you must adjust City-owned water manholes and electric manholes that are shown as "to be adjusted" on the plans.
  - a. You must protect and maintain in a satisfactory manner City-owned water mains, connections and appurtenances and all City-owned electrical conduits, cables, vaults and appurtenances that are located entirely outside of the neat lines of the excavation as shown on the plans or as ordered by the Commissioner, until the completion of the Work under the contract. Whenever in the performance of the Work under the contract it becomes necessary because of the nature of the Work required by the contract or because of your method of performing the Work, to support, remove, replace, relocate, rearrange, adjust or repair those City-owned structures located entirely outside of the excavations, you must notify the appropriate City Department to perform the Work, and must cooperate with the Department in preserving service in or through them. You must reimburse the appropriate City Department for the cost of performing the Work, and the cost must be included in the various Contract prices.
  - b. The City will support, protect and maintain or remove, replace, relocate, rearrange, adjust or repair, both inside and outside of the excavations, all City-owned water mains, connections and appurtenances and all City-owned electrical conduits, cables, vaults and appurtenances, any part of which are located inside of the neat lines of the excavations as shown on the plans or ordered by the Commissioner, without cost to you. But you must adjust those City-owned water manholes and electric manholes that are shown as "to be adjusted" on the plans. Whenever in the performance of the Work under the contract it becomes necessary to support, protect, maintain, remove, replace, relocate, rearrange, adjust or repair such City-owned structures any part of which is located inside of the excavations, you must notify the appropriate City department to perform the Work and must cooperate with the department in preserving service in or through them.
  - c. With the exception of the City-owned water mains, connections and appurtenances and the City-owned electric conduits, cables, vaults and appurtenances described above, and with the exception of City-owned structures that are to be removed or otherwise Worked upon as part of the requirements of the Contract, you must support, protect, maintain or relocate and rebuild all poles, trees, shrubbery, fences, sewers, pipes, conduits, cables, wires, manholes, tunnels, buildings, subways and other City-owned structures that pass through and are located within the excavations or that are adjacent to the Work to be constructed under the Contract during the construction and until the completion of the Work under the Contract.
5. You must notify and cooperate with the owner (s) of all basements of buildings, subsidewalk vaults, tunnels, conduits, wires, poles, pipes, gas mains, cables, steam and street railway tracks and equipment or other appliances or structures located in any portion of the streets, public areas, highways and easements that are to be occupied or used during the construction of the Work specified under the Contract in maintaining, removing, relocating, rearranging or adjusting wherever necessary.
  - a. Wherever in the performance of the Work specified under the Contract it becomes necessary to remove, replace, rearrange, adjust or repair City-owned sewers, catch basins, manholes, inlets, sewer connections and appurtenances by reason of the fact that the structures and appurtenances pass through or are located within the limits of the excavations as shown on the plans or ordered by the Commissioner, you must perform the Work necessary to remove, replace, relocate, rearrange, adjust or repair the structures and appurtenances. The cost of



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performing the Work must be included in the Contract price.

- b. Wherever in the performance of the work specified under the contract it becomes necessary to support and maintain City-owned sewers, catch basins, manholes, inlets, sewer connections and appurtenances or wherever it becomes necessary as a result of your methods of construction during the Work under the contract, to remove, replace, relocate, rearrange, adjust, or repair City-owned sewers, catch basins, manholes, inlets, sewer connections and appurtenances (other than those specified in the last preceding paragraph) you must perform the Work necessary to support, maintain, remove, replace, relocate, rearrange, adjust or repair the structures and appurtenances, and you must bear the cost of the Work without any additional compensation for it.
  - c. It is the intention of the specifications that you include in the appropriate Contract Price or prices, all necessary cost and expense of supporting, maintaining, removing, replacing, relocating, rearranging, adjusting or repairing all City-owned appliances and structures (other than City-owned water mains, connection and appurtenances and City-owned electrical conduits, cables, vaults and appurtenances described in Section XVI.E.4.b), encountered in or affected by the Work, and that you must also include in the price or prices all necessary cost and expense of removing structures that have been or will be abandoned by their owner or owners and that are necessary to be removed in order to construct work under the Contract, but you must not include in the price or prices the cost or expense of supporting, maintaining, moving, replacing, relocating, rearranging, adjusting or repairing those appliances or structures that are not owned by the City and are not abandoned by their owner or owners, except as may be otherwise specified below in this Section.
6. You must take all reasonable precautions for the protection of buildings, railroad tracks, street railway tracks and appurtenances, and other appliances and structures not owned by the City.
  7. You must determine the methods to be employed, the procedure to be followed, the equipment, plant, falsework, shoring, bracing and other temporary structures and equipment to be used on the Work, subject to the requirements of the Contract and the approval of the Commissioner. Only adequate and safe procedures, methods, structures and equipment must be used.
  8. You must provide drawings and calculations for all equipment, falsework, shoring, bracing and other temporary structures required for the Work, designed, signed and sealed by an Illinois licensed structural engineer. You must submit copies of all such drawings and calculations to the Commissioner for information only.
  9. Field Check of Dimensions, Cutting and Patching. Where the Work connects to existing structures or appurtenances, you must take complete field measurements affecting all Work under this Contract and are solely responsible for the proper fit between the Work and existing structures or appurtenances. You must perform all cutting, patching, or fitting of Work that may be required to properly fit together the several parts of the Work and the existing structures or appurtenances.
  10. Contractor's Layout of the Work. You are responsible for the correct lay-out and accurate fitting of all parts of the Work. You must furnish at your own expense all labor, materials and other expenses necessary for, or incidental to, the setting and maintaining of lines and grades (exclusive of the Work of establishing the original reference base line and bench marks that will be performed by the City). The City will not make separate payment to you for the cost of any of the Work specified in this Contract. The cost is included in the Contract unit or lump sum prices.
  11. Salvage of Materials. When city-owned property such as cast iron manholes and catch basin frames and covers, inlet boxes and gates, and other roadway appurtenances are to be removed and are not to be reused in the Work, you must securely store them for possible use by the City

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You must take care to prevent damage in your handling of these appurtenances. You must deliver all items identified by the City for reuse to a location designated by the Commissioner and must legally dispose of the remaining items.

12. Wherever basements of buildings, subsidewalk vaults, tunnels, sewers, water, gas, telephone, telegraph, electric or other pipes, conduits, cables, wires, manholes, vaults, steam and street railway tracks or other similar structures and appliances not owned by the City are in or cross the excavations for structures to be built under this Contract, you must notify the owner or owners of the structures and appliances to support, move, rearrange or abandon them, and cooperate with the owner or owners of the structures and appliances in preserving the service or services provided by the structures and appliances, except as may be otherwise specified or provided in the Contract. If you have complied with the above requirements and has been notified by the owner or owners of the structures and appliances that any of them have been abandoned, or lacking such notice, if you have made all investigations and has found that any of the above structures or appliances have been abandoned by their owners and if the removal of any such abandoned structure or appliance is necessary in order to construct the Work, you must remove them at no additional cost to the City.
13. Wherever basements of buildings, subsidewalk vaults, tunnels, sewers, water, gas, telephone, telegraph, electric or other pipes, conduits, cables, wires, manholes, vaults, steam and street railway tracks or other similar structures and appliances are adjacent to, but do not cut through or cross the excavations for structures to be built under the Contract, you must perform the Work in such a manner as to not cause damage to the structures and appliances and not interrupt their use during the progress of the Work.
14. You must arrange to notify the owner or owners of structures and appliances that are to be supported, maintained, removed, reconstructed, relocated, rearranged, adjusted or repaired by reason of the Work in ample time to permit them to do their work. The Commissioner may direct you to suspend your operations on that part of the Work that affects the structures and appliances until their owner or owners have had time to perform the work.
15. You must conduct the Work so that no equipment, material or debris is placed upon private property unless you have first obtained the owner's written consent thereto and provided this written consent to the Commissioner. You must take such means as may be required to prevent the creation of a public nuisance on any part of the Work site or adjacent streets or property.
16. You must thoroughly clean all streets, pavements, sidewalks and parkways and all private property of all surface materials, earth and rubbish and restore them to as good condition as before the commencement of the Work. Where you have removed or killed sod, you must provide new live sod. Where the areas have been seeded, you must replace top soil equivalent to that removed, fertilize it, seed and roll it to the satisfaction of the owner of the land. You must replace all trees, shrubs and plants damaged in the proper season of the year with live, growing stock of the same kind and variety and of the size ordinarily used for planting purposes.

#### **F. Precautions and Safety**

1. You must take any precautions that may be necessary to render all portions of the Work secure in every respect, to decrease the liability of accidents from any cause and to avoid contingencies that are liable to delay the completion of the Work. You must furnish and install, subject to the approval of the Commissioner, all necessary facilities to provide safe means of access to all points where Work is being performed and make all necessary provisions to insure the safety of workers and of engineers and inspectors during the performance of the Work. You are required to conduct your Work so as not to unnecessarily obstruct the activities of other contractors who also may be engaged in work on this or any other project.

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2. Although the Commissioner may observe the performance of the Work and reserves the right to give you opinions and suggestions about safety defects and deficiencies, the City is not responsible for any unsafe working conditions. The Commissioner's suggestions on safety, or lack of it, will in no way relieve you of your responsibility for safety on the Work site. You have sole responsibility for safety and the obligation to immediately notify the Commissioner of all accidents.
3. Precautions must be exercised at all times for protection of persons (including employees) and property. The safety provisions of applicable laws and building and construction codes must be observed.
4. You must provide completely equipped first aid kits readily accessible at all times on the Work site. You must designate an appropriately trained individual on each shift to be in charge of first aid.
5. You must provide at appropriate locations fire extinguishers or other fire protection equipment that comply in all respects with the Municipal Code and NFPA standards. You must maintain this equipment in proper operating condition at all times and must cause the equipment to be inspected by all appropriate agencies as required by law, but in no event less than monthly. You must comply with the Municipal Code requirements on the use of standpipes, hoses and other fire protection equipment.
6. Only such materials and equipment as are necessary for the construction of the Work under this Contract must be placed, stored or allowed to occupy any such space at the site of the Work. Not more than one day's supply of flammable liquids, including oil, gasoline, paint, or solvent is permitted to be kept on hand at any one time. If gasoline, flammable oils, other highly combustible materials or compressed gas cylinders are to be stored at the site, they must be stored in a secure manner, in compliance with all applicable laws, ordinances and regulations, and all storage places must be clearly marked. The written consent of the Commissioner is required for such storage. That consent in no way limits your liability for the materials.
7. You must prohibit all lighting of fires about the premises and all smoking in restricted areas where posted with "NO SMOKING" signs, and you must diligently enforce this prohibition. You must furnish and post "NO SMOKING" signs. You must not permit any debris or waste materials to be burned at the Work site.
8. Construction Areas. All personnel employed by you or your Subcontractors and all visitors whenever entering the job site must be required to wear approved personal protection equipment required for that area. Machinery, equipment and all hazards must be guarded or eliminated in accordance with safety provisions of the "Manual of Accident Prevention in Construction," published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable law.

#### **G. Health, Safety and Sanitation**

1. Clean-Up. During construction, you must keep the Work site and adjacent premises as free from material, debris and rubbish as practicable. Haul roads, streets and public areas must be swept daily. Before Final Completion and Acceptance of the Work, you must remove from the Work site and adjacent premises all machinery, equipment, surplus materials, falsework, excavated and useless materials, rubbish, temporary buildings, barricades and signs and must restore the site to the same general conditions that existed before the commencement of the Work. The cost of final clean-up is included in the unit prices for the various items, or included in the Contract lump sum price, as the case may be. You must clean off all cement streaks or drippings, paint smears or drippings, rust stains, oil, grease, dirt and any other foreign materials



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deposited or accumulated on any portion of your Work, or existing facilities and structures, due to your performance of the Work.

2. Snow and Ice Removal. You must remove snow and ice that may impair progress of Work, be detrimental to workers, or impair trucking to and from points of delivery at the Work site.
3. Glass Breakage. You must replace all glass broken or damaged during construction at no additional cost to the City. You must promptly remove all broken glass from the Work site.
4. Noise and Vibration Control. All equipment, vehicles, and Work under this Contract must be conducted in accordance with the City Building Code, Chapter 11-4 of the Municipal Code "Environmental Protection and Control," Article VII - *Noise and Vibration Control*, so as to cause a minimum of noise, vibration and inconvenience to the activities of the occupants of property and buildings in the vicinity of the Work. When the Commissioner, in his sole discretion, determines that your operations constitute a nuisance, you must immediately proceed to conduct your operations in a manner that abates the nuisance. you must provide all measures, including engine and exhaust mufflers, acoustic casing enclosures, maintaining equipment, or physical barriers along the edges of the construction zone, required to minimize noise and vibration. Noise and vibration levels may be monitored by the Commissioner.
5. Health and Safety. You must comply with the requirements of the Illinois Health and Safety Act, 820 ILCS 225/01 *et seq.*, and the rules and regulations promulgated under it by the Director of Labor for the State of Illinois, which are on file with the Illinois Secretary of State.

Whenever a federal OSHA Compliance Officer arrives at the work site, you must notify the Commissioner immediately. At the conclusion of the inspection, any findings are reported to the Commissioner. Copies of any citations issued and related documents must be submitted to the Commissioner.

You must maintain the following records and make available to the Commissioner for review: (i) all records required by OSHA, including the accident log, Fed/OSHA #200, and posting of the prescribed OSHA poster; (ii) log of safety activities, accident investigation, employee instruction, training, tool-box meetings, and any other pertinent information; and (iii) Material Safety Data Sheets (MSDS) as required for each material you have used at the Work site.

6. You must enforce among your employees such regulations in regard to cleanliness and the disposal of garbage and wastes that are necessary for their health and tend to prevent the inception and spread of contagious and infectious disease among them. you must provide an ample supply of suitable, pure drinking water, and must take such means as the Commissioner may direct to effectively prevent the creation of a nuisance on any part of the Work site or adjacent streets or property. You must construct and maintain necessary sanitary conveniences for the use of the laborers on the Work, properly secluded from public observation, in such manner and at such points as be approved, and their use must be strictly enforced. Whenever manholes have been used for sanitary proposes, they must be thoroughly flushed and cleaned when no longer needed.

The manner of disposing of waste must be such that all waste is disposed of without creating a public nuisance or health hazard and in accordance with Illinois Department of Public Health Circular No. 815, Educational Health Circular No. 4.001, and all Illinois Environmental Protection Agency rules and regulations.

You must also comply with all rules and regulations of the federal and State governments and the City Department of Public Health.



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#### **H. Hazardous Operations and Security**

1. During construction, all cutting or welding operations must be carried out with all precautions taken to prevent fires resulting from sparks or hot slag. Extreme care must be exercised to determine that sparks or embers do not fall into any combustible materials, even if such material is stored on lower floors. Sheet metal wind screens must be provided around the lead-melting furnaces whether the Work site is enclosed or not. Portable fire extinguishers must be provided at and below all locations where cutting or welding or melting operations are being performed or, if those operations are extensive, a hose from the stand pipe system or fire hydrant must be placed nearby. You must obtain special permission from the Commissioner of Water and pay all associated connection fees.
2. No welding, flame cutting, or other operations involving use of flame, arcs, or sparking devices, will be allowed without adequate protection. All combustible or flammable material must be removed from the immediate working area. If removal is impossible, flammable or combustible materials must be protected with fire blankets or suitable non-combustible shields to prevent sparks, flames or hot metal from reaching flammable or combustible materials. You must provide necessary personnel and equipment to control incipient fires resulting from welding, flame cutting, or other sources involving use of flame, arcs, or sparking devices.
3. You must immediately report any concentration of gas fumes, and you are responsible for clearing the area and notifying the Commissioner and the appropriate utility company. All operations in the area must be suspended until the source of the fumes has been located and corrected.
4. You must arrange for the installation of necessary fire protection lines and equipment as required by the Chicago Fire Department and as necessary to properly protect the Work site. Permanent fire protection facilities may be used for this purpose as soon as they are installed, tested and approved by the Commissioner for temporary use.
5. Salamander heaters or similar forms of uncontrolled heaters must not be used except with the special written permission of the Commissioner and City fire marshal and then only when each salamander is maintained under constant supervision.
6. Gasoline must be kept in and handled from approved safety cans.
7. All tarpaulins used for any purpose must be made of fire, water and weather-resistant materials.
8. You must furnish such watchmen as may be necessary to protect the public and those who are at or in the vicinity of the Work under this Contract, and to protect all materials, tools, machinery and equipment and all Work you have performed.
9. You must comply with all federal and state and local occupational health and safety statutes, and any occupational health and safety standards promulgated thereunder; provide reasonable protection to the lives, health and safety of all persons employed under this Contract; furnish to all such persons a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm; keep all persons employed under this Contract informed of your protections and obligations under the statutes; and provide all persons employed under this Contract with information regarding hazards in the workplace, including information about suitable precautions, relevant symptoms and emergency treatment. The federal and state occupational health and safety statutes, and the rules and regulations promulgated thereunder, are considered part of this Contract as though fully set forth in this Contract.
10. You must provide safety instructions and training for all workers. you must conduct weekly craft safety meetings (tool-box type) of reasonable length as an effective means of communicating

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safety issues to workers. Reports containing tool box discussion topics must be signed-off by all attendees and must be submitted to the Commissioner.

#### **I. Services and Use of Site**

1. **Work Area.** After receipt of the Notice to Proceed, you must propose a suitable working area subject to approval by the Commissioner. You must secure the space at your own expense.
2. **Temporary Services and Utilities.** If specified in the Contract, you are responsible for arranging for and providing all general services and temporary facilities as specified in the Contract and as required for the proper and expeditious prosecution of the Work. You must pay all costs for those general services and temporary facilities. You must provide temporary connections for water, electricity and heat including installation, maintenance and removal of those facilities. You must pay the cost of all water, telephone, and electricity during the construction period.
  - a. **Water.** You must provide temporary water connections as required for drinking and construction purposes. The Commissioner reserves the right to regulate the use of water and may impose restriction on the use if you are using water carelessly. You must provide water and facilities for obtaining water for sanitary purposes, drinking, mixing concrete and for all other purposes at your expense. You are not permitted to obtain the water from the mains of the Chicago water system, except as may be provided in the Contract. Except with special permission from the Commissioner and the Department of Water, you must not make connections for water to the City's fire hydrants.
  - b. **Light and Power.** You must furnish the electricity and must furnish and install all wiring, electrical services, lighting units, insulated supports for wiring and all other electrical equipment together with all other incidental and collateral Work necessary for the furnishing of the temporary power and lighting facilities for the Work to be done under this Contract, all at no additional cost to the City. Electrical Work must be performed by a licensed electrician.
  - c. **Temporary Heating During Construction.** You must provide temporary closures or enclosures for all exterior door, window, roof or other types of exterior openings as required to provide protection from the elements during construction. It is your responsibility to keep water in pipes from freezing and to maintain temporary heat in areas where Work is being performed at not less than 50° F before plastering and painting and not less than 60° F after. The Heating period is from approximately October 1 to May 30 unless conditions warrant otherwise. You must furnish, install, operate and maintain all required temporary heating equipment, and must provide and pay all fuel costs.
3. **Temporary Construction Facilities.** Unless otherwise specified, you must provide and maintain the following temporary construction facilities throughout the construction period and remove them at the completion of the Work:
  - a. **Field Offices.** Unless otherwise specified in Book 3, you must provide a temporary building or mobile type field office of such size and containing such equipment as you deem necessary to conduct the operations. The field office must be provided with a telephone for your superintendent and use by others during the entire period of construction. The telephone must be removed promptly upon Final Completion and Acceptance of the Work.

Unless otherwise specified in Book 3, you must supply a field office for the City's Superintendent consisting of a separate office facility. It must be of adequate size for efficient operations and be furnished with a desk, three chairs, 4-drawer file cabinet and a plan table. It must be equipped with electric lighting, heating, ventilating and cooling facilities. You must provide a separate telephone for City Superintendent's use.

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- b. You must also provide and maintain in clean condition for Superintendent's use, including toilet facilities, having a water closet and laboratory fixture connected to sanitary sewer and water service. Temporary toilet facilities must be located in the City's Superintendent's trailer and comply with City and State regulations relating to health and sanitation. The toilet facility must be serviced twice weekly and kept stocked with toilet paper, soap, and paper towels.

Toilets. You must provide at least one portable chemical toilet for every 20 workers or fraction of that number at the Work site as soon as construction operations commence. Toilet facilities must be serviced, at a minimum, twice weekly, which includes draining tank and refilling and disinfecting the interior of each toilet unit, and keeping each unit stocked with toilet paper. Toilet facilities must be maintained during the term of the construction period and removed upon completion of the Work.

- c. Stove heaters in temporary offices and sheds must be properly installed to protect combustible walls, floors and roof.
- d. Storage of Materials. If it is necessary to store materials, they must be protected in such a manner as to insure the preservation of their quality and fitness for the work. All stored materials will be inspected at the time of use in the Work even though they may have been inspected and approved before being placed in storage. You may store materials in the areas provided as working areas by the Contract. If no areas are provided, or if the areas provided are insufficient, you must provide the space required at your expense. Upon completion of the Work, you must clean and restore the storage sites and working areas to their original condition at your expense.

All materials and equipment must be received at the Work undamaged. The Commissioner has the right to reject any method of packing and shipping that, in the Commissioner's opinion, will not adequately protect the materials and equipment against damage while they are in transit or storage or that will damage existing structures.

- e. Storage Sheds. You and each Subcontractor must provide suitable watertight storage sheds for your or their own use as needed. You and each Subcontractor are responsible for and must pay for any electric services to your or their storage sheds. However, the electrical Work must be performed by a licensed electrical Subcontractor. You are responsible for materials stored in the open; they must be arranged in an orderly manner and properly protected against the elements and damage.
4. Working Space. You must provide working space for your own use and for each of your Subcontractors. It must provide sufficient space for benches, tools, material storage and for such other purposes as may be required to properly perform and expedite the Work. Allocation of such Work areas is subject to approval by the Commissioner. You must maintain all Work areas in a clean and orderly condition and take whatever precautions as may be necessary adjacent to the new Work. You must clean, repair or replace any damage to Work site due to improper protection at no additional cost to the City.
  5. Equipment and Falsework. You must determine the methods to be employed, the procedures to be followed, the equipment, plant, falsework, shoring, bracing, and other temporary structures and equipment to be used on the Work, subject to the requirements of the Contract. Only adequate and safe procedures, methods, structures, and equipment must be used. You must furnish and maintain and are solely responsible for all equipment such as temporary ladders, ramps, runways, hoists, scaffolding, and similar items required for proper execution of Work. All such apparatus, equipment and construction must meet the requirements of federal, State and local laws concerning the safety and protection of employees. No hoist, scaffolding or other equipment must be erected at such location as will interfere with general construction or progress of other trades. Hoists, scaffolding or other equipment must be located at sufficient distance

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from exterior walls to prevent staining or marring of any permanent Work. All suspended scaffolding and staging must be lowered to ground level at the end of each work day.

6. **Project Signs.** You must erect and maintain signs identifying the Project and indicating City, and to the extent applicable, State and federal participation. Work under this item includes constructing and erecting project signs of the size and material specified in the Contract drawings. These signs must be erected in locations approved by the Commissioner and must be maintained throughout the term of this Contract. You are responsible for the immediate removal of graffiti. If you are notified of graffiti, you must remove such within 24 hours. The signs must not be removed until you receive such notice from the Commissioner. Unless noted otherwise in Book 3, no separate payment will be made for furnishing, erecting and maintaining the project signs; it is incidental to the Contract.

#### **J. Reports and Plans**

1. **Daily Progress Reports.** You and all Subcontractors must prepare and submit to the Commissioner daily progress reports on the various parts of the Work. The report must include the number of workers and the classification of the trades involved, equipment used and any pertinent information regarding possible delays in the Work.
2. **Procedures, Methods and Equipment.** You will determine the methods to be employed, the procedure to be followed, the equipment, plant, falsework, shoring, bracing and other temporary structures and equipment to be used on the Work, subject to the requirements of the Contract. Only adequate and safe procedures, methods, structures and equipment must be used. Any approval, constructive or otherwise, by the Commissioner of such methods, procedures and equipment in no way relieves you of any of your obligations under this Contract.

## **XIV. STANDARD SPECIFICATIONS**

### **A. Concreting in Freezing Weather**

You must provide protection of Portland Cement Concrete from cold weather in accordance with Articles 1020.13(c) and/or 1020.13(e) of the Standard Specifications. The cost of all protection of the concrete from cold weather as may be required and as specified in the those specifications must be included in the contract unit prices for Class "SI" concrete other appropriate items of the contract and no additional payment will be made therefore.

### **B. Protection of Railroad Traffic and Property**

The following supplements the Standard Specifications and any Supplemental Specifications in effect; and in case of conflict with any part of parts of the Standard or Supplemental Specifications, this supplement takes precedence and governs. Add the following to Article 107.12., "Protection of Railroad Traffic and Property":

Whenever such Work, in the opinion of the Railroad Engineer, or his duly constituted and authorized representative, may affect the safety of trains and the continuity of the Railroad's operations, the method of doing such Work must first be submitted to the Railroad Engineer for approval, which will not be unreasonably withheld or delayed, and without which the Work must not be commenced or prosecuted.

The approval of the Railroad Engineer is not to be considered as a release from responsibility or liability for any damage that the Railroad may suffer, or for which it may be held liable by the acts of you, your Subcontractors, or your or their employees.



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You are cautioned that when you are working over and/or near railroad property, you must provide adequate protection to safeguard the railroad property. You must also notify all railroad companies affected by the construction 10 days before starting any work that involves working on or over railroad property and must receive permission from the companies before entering onto railroad property.

## **XV. ENVIRONMENTAL REQUIREMENTS**

### **A. Compliance with Environmental Laws**

1. You must comply with all Environmental Laws and any present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive that regulates, relates to, imposes liability for or establishes standards of conduct concerning any Hazardous Materials that may be set forth by the federal government, or the states, or any agency, court or body of the federal government, any state or any political subdivision of them exercising executive, legislative, judicial, regulatory or administrative functions. You recognize that many federal and state laws imposing environmental and resource conservation requirements may apply to the Contract. You also recognize that U.S. EPA, U.S. DOT and other agencies of the state and local governments have issued and are expected in the future to issue regulations, guidelines, standards, orders, directives, or other requirements that may affect the Contract. Thus, you must adhere to, and impose on your Subcontractors, any such requirements as these governments and agencies may now or in the future promulgate. Listed below in Section XVIII.F are requirements of particular concern. You acknowledge that this list does not constitute your entire obligation to meet all federal environmental and resource conservation requirements. You must include these provisions in all subcontracts.
2. If you are required pursuant to any Environmental Laws to file any notice or report of a release or threatened release of Hazardous Materials or Special Wastes on, under, or about any premises you use to perform the Work required under this Contract, you must provide a copy of that report or notice to the City. In the event of a release or threatened release of Hazardous Materials or special waste into the environment, or in the event of any claim, demand, action or notice is made against you regarding your failure or alleged failure to comply with any Environmental Law, you must notify the City pursuant to Section XVIII.C, "Disposal of Waste Materials, Construction Debris, Soils and Waste," below.
3. If you fail to comply with any Environmental Law, the City may terminate this Contract in accordance with the default provisions of this contract and may adversely affect your eligibility for future contract awards.

### **B. Environmental Permits**

1. You must show evidence of, and keep current throughout the term of this Contract, all waste hauling, special waste hauling, disposal permits and insurance certificates required by federal, State, City or other local governmental body or agency pursuant to any Environmental Law.
2. When requested by the Chief Procurement Officer, you must submit copies of all hauling permits required by any Environmental Law. Copies of all permits and insurance certificates that require periodic renewal must be forwarded to the Chief Procurement Officer throughout the duration of this Contract. Noncompliance with this requirement may be cause for termination of this Contract and declaring you non-responsible in future bids.
3. Environmental Records and Reports. You are required to prepare and maintain proper, accurate and complete records of accounts of all transactions related to the performance of this Contract, including:

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- a. Vehicle maintenance records;
- b. Safety and accident reports;
- c. IEPA or OSHA manifests;
- d. Disposal records, including disposal site used, date, truck number and disposal weight, bills of lading, manifests, or other confirmatory receipts signed by a representative of accepting facility for each load of material; and
- e. Permit documentation and all other documentation and transactions pertaining to all Environmental Laws.

#### **C. Disposal of Materials, Construction Debris, Soil and Waste**

1. You are responsible for the proper disposal of all materials, construction debris, soil and other waste. Hauling and disposal by a Subcontractor does not relieve you from responsibility for proper disposal. Disposal of all materials, construction debris, soil, and other wastes must be at a disposal site that is properly licensed and permitted to accept the particular materials, construction debris, soil and other wastes delivered to it in accordance with all Environmental Laws. You must identify the disposal site(s) or transfer station(s) to which you have contractual access and for which proper, sanitary landfill permits and/or licenses have been obtained.
2. You must upon request provide the Commissioner or his designated representative with copies of all pertinent documents, including load tickets, manifests, bills of lading, scale tickets, and permits and/or licenses for the proposed transfer station and/or landfill. If the transfer station and/or landfill you propose to use does not possess the necessary permits and/or licenses to accept the materials, construction debris, soil or other wastes, you must replace the transfer station and/or landfill submitted as part of their bid proposal at no additional cost to the City. If you dispose of materials, construction debris, soil or other wastes at a site that is not properly permitted, you will be responsible for all costs associated with the removal of the waste to a properly licensed/permitted landfill or disposal site.
3. You must notify the Commissioner, within 24 hours, of receipt of any environmental complaints, fines, citations, violations or notices of violation ("Environmental Claim") by any governmental body or regulatory agency against you by any third party relating to the loading, hauling or disposal of materials, construction debris, soil or other wastes. You must provide evidence to the Commissioner that any such Environmental Claim has been addressed to the satisfaction of its issuer or initiator.
4. You must notify the City of any community meetings, media involvement or media coverage related to the loading, hauling or disposal of materials, construction debris, soil and other wastes under this Contract in which you are asked to participate.
5. You must verify, in writing, whenever requested by the Commissioner, that all materials, construction debris, and other waste you accept from the City have been disposed of in compliance with all Environmental Laws.
6. The form for identifying your debris disposal/handling site(s) and acknowledging terms and conditions relating thereto that you have executed and attached to this Contract is incorporated by reference (the "Form"). In addition to the representations and requirements contained in the Form, you acknowledge that unless otherwise authorized in writing by the Commissioner of Environment, you must not continue to use a disposal/handling site identified in the Form that (i) has been cited as being in violation of any environmental law or regulation or of any City ordinance; or (ii) does not have a necessary permit. If only one site was identified in the Form, you must arrange for a substitute disposal/handling site that meets the requirements specified in

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the Form and provide a revised Form to the Commissioner of Environment. You further acknowledge that any such substitution is at no additional cost to the City, regardless of the reason necessitating such substitution.

#### **D. Equipment and Environmental Control During Transport**

You must haul materials, construction debris, soil and other wastes in vehicles and/or containers complying with all applicable Environmental Laws. All equipment used to transfer materials, construction debris, soil and other wastes must be designed to prevent spillage during the hauling operation. Your equipment must fully comply with all City, State and federal Regulations, laws and ordinances pertaining to size, load weight, safety and any Environmental Law.

#### **E. Environmental Control**

In performing the Work, you must become thoroughly familiar with all federal, State, and local statutes, ordinances, and directives with respect to the elimination of excessive noise and pollution of air, water, and soil due to construction and other operations. Attention must be given to reduce the noise of heavy construction equipment and to the control of dust, smoke, and fumes from construction equipment and other operations on the Work site, and the dirt and noise created by heavy truck operations over City streets in accordance with ordinances of the City and orders of the Commissioner. The discharge of Hazardous Materials into waterways and City sewers is not permitted.

#### **F. Environmental Protection**

You must comply with, and must cause your Subcontractors to comply with, all federal environmental and resource conservation laws and regulations, whether existing or promulgated later, as they apply to this Contract. You must include these provisions in all subcontracts. Some, but not all, of the major federal laws that may affect this Contract include the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321 *et seq.*; the Clean Air Act, as amended, 42 USC §§ 7401 *et seq.* and scattered sections of 29 USC; the Clean Water Act, as amended, scattered sections of 33 USC and 12 USC; the Resource Conservation and Recovery Act, as amended, 42 USC §§ 6901 *et seq.*; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§ 9601 *et seq.*. You and your Subcontractors must also comply with Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994; U.S. DOT statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 CFR Part 1500 *et seq.*; and U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.

1. Air Quality. You must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401 *et seq.* Specifically, you must comply with applicable requirements of U.S. EPA regulations, "Conformity to State of Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Act," 40 CFR Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 CFR Part 93; and National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR § 61.145. You further must report and require each Subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the City and the appropriate U.S. EPA Regional Office.
2. Clean Water. You must comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 USC §§ 1251 *et seq.* You



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further must report and require each Subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the City and the appropriate U.S. EPA Regional Office.

3. List of Violating Facilities. You acknowledge that any facility to be used in the performance of the Contract or to benefit from the Contract must not be listed on the U.S. EPA List of Violating Facilities ("List"), and you must promptly notify the City if you receive any communication from the U.S. EPA that such a facility is under consideration for inclusion on the List.
4. Preference for Recycled Products. To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of the Work, you must use recycled products in performance of the Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 CFR Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962.

#### **G. Open Dumping Prohibited**

You must remove all recyclable material and garbage, refuse or other waste material, including broken concrete, bricks, rock, paving asphalt and incidental debris generated from all construction or demolition activities performed under this Contract and transport them to a facility that is zoned and permitted to accept such material under Chapter 11-4 of the City Municipal Code and all Environmental Laws. You must retain, for each load of material, bills of lading, manifests, or other confirmatory receipts signed by a representative of the accepting facility and make them available to the City upon request.

#### **XVI. (Intentionally Deleted)**

### **XVII. COMPLIANCE WITH ALL LAWS**

#### **A. Contractor Must Comply with All Laws**

Contractor must observe and comply with all Applicable Laws, in effect now or later and whether or not they appear in the Agreement, including those specifically referenced herein or in any of the Contract Documents. Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required in connection with the performance of its obligations hereunder, and Contractor must require all subcontractors to do so. Contractor is fully responsible for ascertaining and complying with all agency and code requirements applicable to the Work.

#### **B. Americans with Disabilities Act**

Contractor must perform all construction or alteration that Contractor undertakes in connection with this Contract in compliance with all federal, state and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including: Americans with Disabilities Act, P.L. 101-336 (1990) and the Uniform Federal Accessibility Standards ("UFAS") or the American with Disabilities Act ("ADA") and; the Illinois Environmental Barriers Act, 410 ILCS 25/1 *et seq.* (1991), and the regulations promulgated with them. If the above cited standards are inconsistent, Contractor must comply with the standard providing greater accessibility.

#### **C. Buy America**

Contractor must ensure that, to the extent applicable, Work provided under this Contract complies with any Buy America provisions of the federal government and/or any similar provisions of the State or City.



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**D. Steel Products**

Unless otherwise provided in the Steel Products Procurement Act, 30 ILCS 565/1 *et seq.*, steel products used or supplied in the performance of this contract or any subcontract to this contract must be manufactured or produced in the United States. Knowing violation of this law may result in the filing and prosecution of a complaint by the Attorney General of the State of Illinois and will subject violators to a fine of the greater of \$5,000 or the payment price received as a result of such violation.

**E. Provisions Relating to Liens**

You will notify your Subcontractors that no mechanic's lien under the Illinois Mechanic's Lien Act 770 ILCS 60/23, *et seq.*, will be permitted to arise, be filed, or maintained against public funds, the Project, or any part of it, or any interest in them, or any improvements on them, or against any monies due or to become due to you on account of any work, labor, services, materials equipment, or other items performed or furnished for or in connection with the Project to the extent permitted by Law. You, for yourself and your Subcontractors, expressly waive, release, and relinquish such liens and all rights to file or maintain such liens, and you further covenant that this waiver of liens and waiver of the rights to file or maintain such liens is an independent covenant.

If any of your Subcontractors, employees officials, agents, or any other person directly or indirectly acting for, through, or on their behalf files or maintains a lien or claim under the Illinois Mechanic's Lien Act, 779 ILCS 60/23, *et seq.*, against public funds or against any monies due or to become due to you on account of any Work, labor, services, materials, equipment, or other items performed or furnished for or in connection with the Project, you must cause such liens and claims to be satisfied, removed, or discharged within 30 days from the date of filing. The City may extend the 30 day period if (i) the City determines that the lien claim cannot be so satisfied, removed, or discharged in such period and (ii) you, in the City's sole determination, are proceeding diligently to cause such liens or claims to be satisfied, removed or discharged. The City has the right, in addition to all other rights and remedies provided under this Contract or by law, to cause such liens or claims to be satisfied, removed, or discharged by any means at your sole cost, such cost to include reasonable legal fees.

**F. Veterans Preference**

You must comply with the provisions of 330 ILCS 55/0 01 *et seq.*, which requires that a preference be given to veterans in the employment and appointment to fill positions in the construction, addition, or alteration of all public works. In the employment of labor (except executive, administrative and supervisory positions) preference is given to veterans of the Vietnam era and disabled veterans, however, this preference may be given only where the individuals are available and qualified to perform the Work to which the employment relates. You must ensure that the following provisions is inserted in all contracts entered into with any Subcontractors and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any material, labor, or services in connection with this Contract.

**G. Chicago Residency Requirements**

If the funding under this contract is \$100,000 or more, and unless otherwise prohibited by law, you and all Subcontractors that perform work on the site of the construction project undertaken under this Contract must comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago specified in Section 2-92-330 of the Municipal Code (at least 50% of the total worker hours must be performed by actual residents of the City of Chicago). In addition to complying with this requirement, you and all Subcontractors must make good faith efforts to utilize qualified residents of the City of Chicago in both unskilled and skilled labor positions.

1. "Actual residents of the City of Chicago" means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

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2. You may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-920-330 in accordance with standards and procedures developed by Chief Procurement Officer.
  - a. You must provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the project. You and your Subcontractors must maintain copies of personal documents supportive of every Chicago employee's actual record of residence.
  - b. Weekly certified payroll reports (US Department of Labor Form WH-347 or equivalent) which must be submitted to the Commissioner in triplicate, must clearly identify the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the company hired the employee should be written in after the employee's name.
  - c. You and your Subcontractors must grant full access to your and the Subcontractor's employment records to the Chief Procurement Officer, the Commissioner of the supervising department, the Superintendent of the Chicago Police Department, the Inspector General, or their duly authorized representatives. You and your Subcontractors must maintain all relevant personnel data and records for a period of at least three years after System Acceptance.
  - d. At the direction of the supervising department, you must furnish affidavits and other supporting documentation to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.
3. Good faith efforts on your part to provide utilization of actual Chicago residents (but not sufficient for granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) does not suffice to replace the actual, verified achievement of the requirements of this section concerning the worker hours performed by actual Chicago residents.
4. When the Work is completed, if the City has determined that you failed to fulfill the requirements of this section concerning worker hours performed by actual Chicago Residents or failed to report in the manner as indicated above, the City will be damaged in that it thereby failed to provide the benefits of demonstrable employment to Chicagoans to the degree stipulated in this section. Therefore, in such a case of noncompliance, you must surrender 1/20<sup>th</sup> of 1%, 00005, of the approved Contract Price for this Contract to the City in payment for each percentage of shortfalls toward the stipulated residency. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no Chicago residents were employed. The willful falsification of statements in the certification of payroll data may subject you or your Subcontractors or employee to prosecution. Any retainage to cover Contract performance that may become due to you under Section 2-92-250 of the Municipal Code may be withheld by the City, pending the Chief Procurement Officer's determination whether you must surrender damages as provided in this paragraph.
5. Nothing provided in this section may be construed to be a limitation upon the "Notice of Requirements For Affirmative Action To Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246" or other affirmative action required for equal opportunity under the provisions of this Contract. You must include this provision in all subcontracts.

**H. Employment of Illinois Laborers on Public Works Projects**

You must use only Illinois laborers in the performance of this Contract to the extent (1) required by the Employment of Illinois Laborers on Public Works Projects Act, 30 IDCS, 570/0 01, as amended from time to time and (2) otherwise permitted by law.

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**I. Compliance with Child Support Orders Ordinance**

The Child Support Arrearage Ordinance Sec 2-92-415 of the Municipal Code, furthers the City's interest in contracting with entities that demonstrates financial responsibility, integrity, and lawfulness, and finds that it is especially inequitable for contractors to obtain the benefits of public funds under City contracts while their owners fail to pay court-ordered child support, and shift the support of their dependents onto the public treasury.

In accordance with Sec 2-92-415 of the Municipal Code, if the Circuit Court of Cook County or an Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owner(s) in arrearage on their child support obligations and (1) such Substantial Owner has not entered into a court-approved agreement for the payment of all such support owed, or (2) such Substantial Owner is not in compliance with a court-approved agreement for the payment of all such child support owed, (see Certification of Compliance with Child Support Orders in EDS), then

For purposes of this Section, "**Substantial Owner**" means any person who owns or holds a 10% or more interest in the Contractor, where the Contractor is an individual or sole proprietorship, substantial owner means that individual or sole proprietorship.

"**Percentage Of Interest**" includes direct, indirect and beneficial interests in you, the contractor. Indirect or beneficial interest means that an interest in you are held by a corporation, joint venture, trust, partnership, association, estate or other legal entity, in which the individual holds an interest, or by agent(s) or nominee(s) on behalf of an individual or entity. For example, if Corporation B holds or owns a 20 % interest in Contractor and an individual or entity has a 50% or more percentage of interest in Corporation B, then such individual or entity indirectly has a 10% or more interest in you. If Corporation B is held by another entity, then this analysis similarly must be applied to that next entity. The provisions of this Section will only apply where not otherwise prohibited by federal, state, or local law.